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Item No. _____
Page Count 2
May 11 # 66

83271

O. KENT MAHER
ATTORNEY AT LAW
33 WEST FOURTH STREET
P. O. BOX 351
WINNEMUCCA, NEVADA 89446
TEL: (702) 623-5277 FAX: (702) 623-2468



April 29, 1996

Vernon A. Williams, Secretary
Case Control Branch; Attn: Finance Docket 32760
Surface Transportation Board
United States Department of Transportation
1201 Constitution Ave., N.W.
Washington, D.C. 20423

Re: Application of Union Pacific Corporation, et al.,
Finance Docket 32760

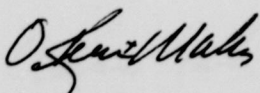
Dear Mr. Secretary:

Transmitted herewith for filing and the attention of the Commission are an original and twenty (20) copies of the Certificate of Service filed on behalf of the City of Winnemucca, a Nevada municipal corporation, and the County of Humboldt, a political subdivision of the State of Nevada, pursuant to Surface Transportation Board Decision No. 32, dated April 23, 1996.

Please confirm your receipt and acceptance of this filing by returning the attached copy of this letter and the Certificate of Service, endorsed with your "Filed" stamp in the enclosed postage prepaid, self-addressed envelope.

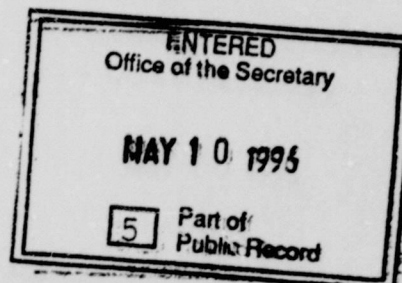
If you have any questions or comments concerning this filing, please contact me at the address or telephone number set forth above. Thank you.

Sincerely,


O. Kent Maher
Winnemucca City Attorney

OKM/kam
Enclosures

xc: City
County



BEFORE THE
SURFACE TRANSPORTATION BOARD
UNITED STATES DEPARTMENT OF TRANSPORTATION



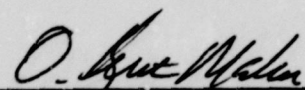
In the matter of the Application of)
Union Pacific Corporation, Union)
Pacific Railroad Company, Missouri)
Pacific Railroad Company, Southern)
Pacific Rail Corporation, Southern)
Pacific Transportation Company, St.)
Louis Southwestern Railway Company,)
SPCSL Corp., and the Denver and Rio)
Grande Western Railroad Company)

Finance Docket No. 32760

CERTIFICATE OF SERVICE

The undersigned attorney of record for the City of Winnemucca, a Nevada municipal corporation, certifies that a copy of the "VERIFIED STATEMENT OF D. STEPHEN WEST FOR THE CITY OF WINNEMUCCA AND THE COUNTY OF HUMBOLDT" was served by first-class, postage prepaid U.S. mail on April 29, 1996 on all parties of record designated as [POR] in the Surface Transportation Board Decision No. 32, excepting those parties of record deleted from the service list by Decision No. 32.

DATED: April 29, 1996.



O. Kent Maher, Esq.
City Attorney
City of Winnemucca
33 West Fourth Street
P.O. Box 351
Winnemucca, Nevada 89446
Tel. (702) 623-5277
Fax. (702) 623-2468

Attorney for City of Winnemucca

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Item No. _____

Page Count 2
May # 55

Vice President
Counsel/Environmental

Tel 801 578 6972
Fax 801 578 6999



83158

April 30, 1996

VIACOM

Office of the Secretary
Case Control Branch
Attn: Finance Document No. 32760
Surface Transportation Board
1201 Constitution Avenue, N.W.
Washington, D.C. 20423

Re: *Compliance with Decision No. 32, issued April 24, 1996, regarding
Finance Docket No. 32760, ICC Dockets AB-12 (Sub-No. ~~7880~~) and
AB-8 (Sub-No. 39)* 189A

Dear Sir/Madam:

I enclose an original and five copies of a Certificate of Service, which certifies Viacom International Inc.'s compliance with Decision No. 32 of Finance Docket No. 32760 requiring parties to serve additional other parties with a list of numbered pleadings submitted in connection with the above-referenced matter.

I understand that service of additional parties of record was to be completed by April 29, 1996. Due to a delay in receiving Decision No. 32, however, service was completed as quickly as possible.

Sincerely,

Jeffrey B. Groy

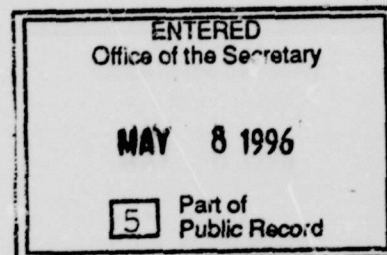
Enclosures

cc: (w/o encls.)

Felicity Hanney, Esq.

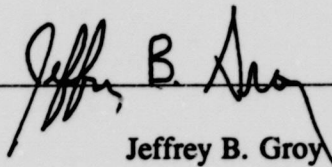
Arvid E. Roach II, Esq.

Paul A. Cunningham, Esq.



CERTIFICATE OF SERVICE

Pursuant to Decision No. 32 in Finance Docket No. 32760, I certify that on this 30th day of April 1996, I served a list of numbered pleadings submitted by Viacom International Inc. to the additional parties of record listed in Decision No. 32 by causing it to be mailed via U.S. Mail, postage prepaid.



Jeffrey B. Groy

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5-6-96

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Item No. _____

Page Count 1

May #39

WILMER, CUTLER & PICKERING

2445 M STREET, N.W.
WASHINGTON, D.C. 20037-1420

A. STEPHEN HUT, JR.
DIRECT LINE (202) 663-6235

TELEPHONE (202) 663-6000
FACSIMILE (202) 663-6363

4 CARLTON GARDENS
LONDON SW1Y 5AA
TELEPHONE 011 (4471) 839-4466
FACSIMILE 011 (4471) 839-3537

RUE DE LA LOI 15 WETSTRAAT
B-1040 BRUSSELS
TELEPHONE 011 (322) 231-0903
FACSIMILE 011 (322) 230-4322

FRIEDRICHSTRASSE 95
BRIEFKASTEN 29
D-10117 BERLIN
TELEPHONE 011 (4930) 2643-3601
FACSIMILE 011 (4930) 2643-3630

May 1, 1996

BY HAND DELIVERY

Mr. Vernon A. Williams
Surface Transportation Board
Case Control Branch
Room 1324
1201 Constitution Avenue, N.W.
Washington, D.C. 20423



Re: Finance Docket No. 32760, Union Pacific
Corporation, et al. -- Control and Merger --
Southern Pacific Rail Corporation, et al.

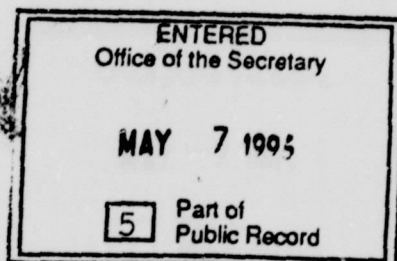
Dear Secretary Williams:

At the request of Board staff, I write on behalf of Consolidated Rail Corporation ("Conrail") to confirm our view that there is no highly confidential or confidential testimony set forth in Conrail's Appendix: Deposition Excerpts (CR-36), filed with the Board under cover letter dated April 26, 1996. So far as we are aware, we redacted all such material before copying the excerpts, and such redactions are indicated on the excerpted pages.

Sincerely,

A. Stephen Hut, Jr.
A. Stephen Hut, Jr.

Counsel for Consolidated
Rail Corporation



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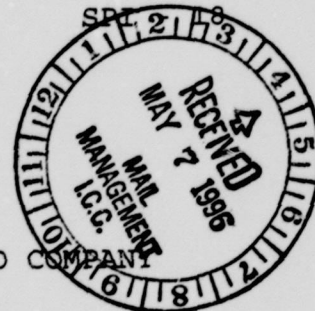
Item No. _____

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May #49

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 32760



UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY
AND MISSOURI PACIFIC RAILROAD COMPANY
-- CONTROL AND MERGER --
SOUTHERN PACIFIC RAIL CORPORATION, SOUTHERN PACIFIC
TRANSPORTATION COMPANY, ST. LOUIS SOUTHWESTERN RAILWAY
COMPANY, SPCSL CORP. AND THE DENVER AND
RIO GRANDE WESTERN RAILROAD COMPANY

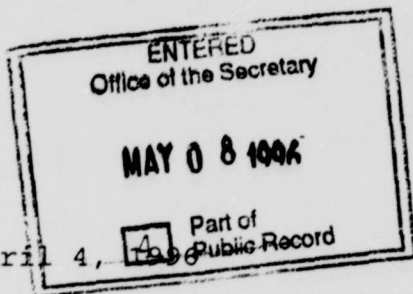
**ERRATA TO FURTHER COMMENTS OF
THE SOCIETY OF THE PLASTICS INDUSTRY, INC.**

Exhibit 4 of SPI-16 inadvertently omitted pages 3 through 6.
Those pages are attached herewith.

Respectfully submitted,

Martin W. Bercovici
Douglas J. Behr
Arthur S. Garrett, III
Leslie E. Silverman
KELLER AND HECKMAN
1001 G Street, NW, Suite 500 West
Washington, DC 20001
Tel: (202) 434-4100
Fax: (202) 434-4646

Attorneys for The Society of
the Plastics Industry, Inc.



April 4, 1996

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Errata to
Further Comments of The Society of the Plastics Industry, Inc.
was served by first-class mail, postage prepaid, this 7th day of
May, 1996, upon all parties of record.

Martin W. Bercovici

the necessary data, and the merger application, of course, presents the data which UP selected to advance its claim. Yet some of this data is surprisingly weak. For example, UP's experts conducted a traffic survey to see how many trailers per day the merged system would divert off the nation's highways. The experts came up with 246 dry vans a day from truck to rail eastbound and northbound, and 250 westbound and southbound, systemwide.

To put this into perspective, UP alone loads about 15,000 cars per day. Containerizable truck traffic in the Los Angeles-San Francisco lane alone amounts to 2600 units per day. Clearly the merger will be invisible on the highway; truckers have little to fear. Single-line service from California through Portland to Seattle, a widely touted benefit of the merger, would enable UP+SP to

depends on their location and type of business.

PROOF THAT THE MERGER benefits shippers, according to UP and SP, are the "more than 1000 shippers who strongly endorse the merger, stressing that it will bring about genuine, vigorous rail competition in the West and rectify the impaired competitive circumstance presented by a very strong BNSF competing with a less competitive UP and a weak SP."

Analysis of shippers' letters [page 44] reveals important facts. The application and supplement incorporate 1152 letters from supportive shippers. Included are UP subsidiaries Overnite Transportation and Skyway Freight Systems, and ABL-TRANS, a division of Pacific Motor Transport Co., owned by SP Transportation Co.

Assuming both groups use rail service in equal proportion and produce at an equal percentage of capacity, approximately 30 percent of the Western cement manufacturing industry wrote a letter of support.

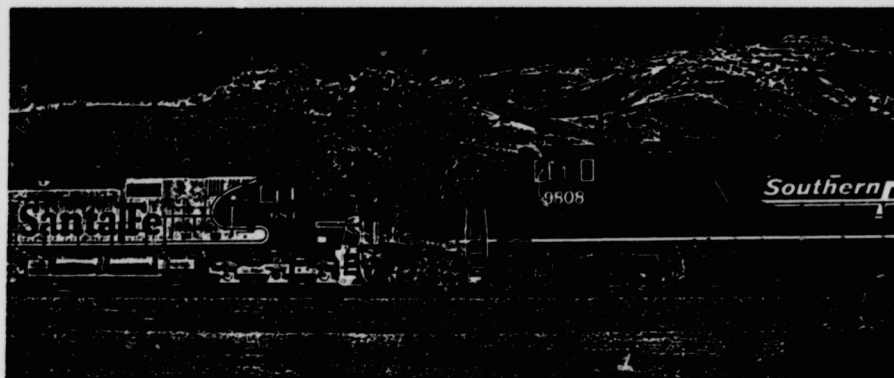
In terms of numbers, probably one-third of UP and SP shippers have written letters of support. In terms of ton-miles and carloads, the percentage is considerably less. Shippers who wrote are typically smaller than the shippers who did not. Shippers who are rail dependent are significantly underrepresented, and shippers that market or add value to railroad services are significantly over-represented. Shippers whose principal business is with Mexico or the Orient, and with access to oceans and waterways, are over-represented, and shippers in landlocked states are under-represented.

In sum, the letters seem strongly biased in favor of shippers who will retain transportation options after the merger. UP+SP's claim of broad shipper support is based principally upon shippers over which UP+SP will not be able to establish market dominance.

TO UNDERSTAND market dominance, it helps to sort shippers into three basic categories: 1) intermodal marketing companies (IMC's); 2) shippers of moderate- to high-value, service-sensitive, modal-competitive commodities; 3) and shippers of low-value, rail-dependent commodities.

IMC's, warehouses, drayage companies, and the like make their living by packaging, marketing, and adding value to a railroad service. Principal competition for IMC's, other than each other, is long-haul motor carriers. Many IMC's also are long-haul motor carriers. Margins are thin; as little as \$50 will switch a trailer from rail to road.

The UP/SP merger, like the BNSF merger, has some benefits for IMC's. It enlarges UP's network, which makes it easier for IMC's to do their job. If railroads are to substantially increase their market share they will have to go after the motor carriers for high-value, service-sensitive shipments with better rates and service, which will likely mean more business for IMC's. Because IMC's aren't bound to a rail spur, they can bid BNSF and UP against each other as well as the motor carriers. The merger puts two big railroads into every major east-west lane. However, these benefits only hold true in long-haul corridors between major city pairs; if an IMC has to serve every hamlet in between, they have less ability to bid one



DON R. FLYNN

SP's tenuous condition has been exacerbated by the formation of BNSF, a railroad of such size and power that even UP's competitive ability is called into question.

divert from truck to rail an estimated 47 trailers a day southbound and 28 northbound. It hardly seems worth the bother.

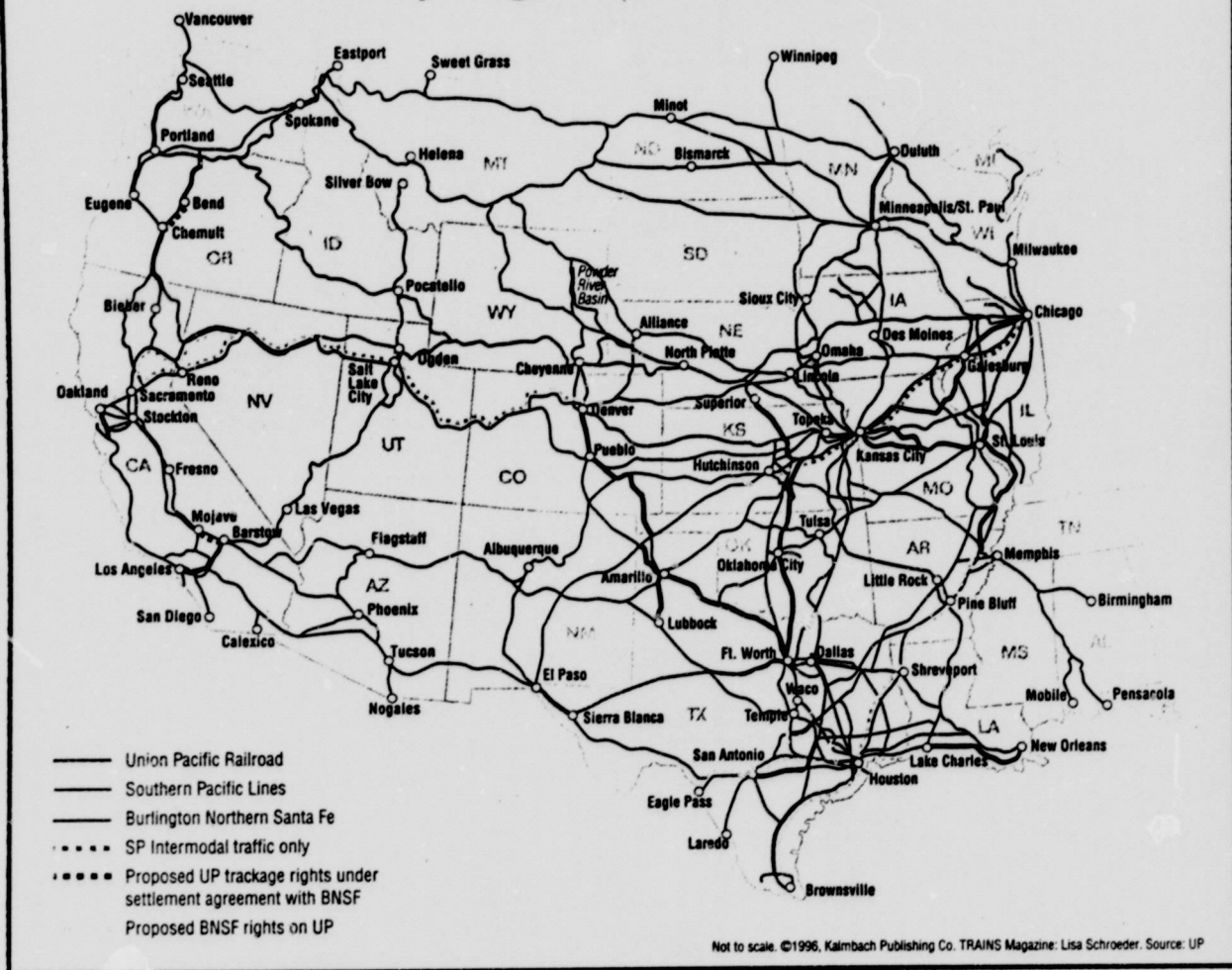
For the 3390 employees UP+SP plans to fire, the merger appears to have few benefits, and the 2952 employees the merged railroad plans to transfer might not enjoy relocating. Anschutz says the merger will result in "more job security." For communities that lose railroad jobs and rail service through abandonment, the merger has few benefits. For shippers and receivers of freight, the merger may or may not have benefit. Much

A number of UP and/or SP suppliers submitted letters, such as Meridian Aggregates, which operates the ballast pit at Granite, Wyo., on UP's main line.

Several shippers who do not ship by rail, but might in the future, submitted letters. Also counted as shippers are 10 economic development authorities such as the Development Corporation of North Platte, Nebr., and other organizations which are neither rail shippers nor receivers. Subtracting the subsidiaries, suppliers, the multiple entries, non-shippers, and one illegible letter, there are 1015 statements of support. (Note that companies which did not write are not necessarily opposed or neutral; all that we can be sure about is that the merger application doesn't contain their letter of support.)

Cement manufacturers in the UP/SP service area help to gauge the merger's breadth of support, since their capacity is published. The 11 supporters have an estimated capacity of 13.6 million tons per year, with an average plant size of 620,000 tons. Twenty-two manufacturers with a capacity of 31.5 million tons per year and an average plant size of 730,000 tons did not submit letters.

Only 2 guns in the West?



railroad against the other. For these reasons the list of supporting IMC's is biased toward lane shippers such as steamship lines and away from network shippers such as United Parcel Service, Schneider, and J. B. Hunt.

Shippers of mid- to high-value commodities are more difficult to sort out. Their transportation options are influenced by location of both shipper and receiver, rates, service, and the value of the commodity. A specific example, Pacific Northwest lumber mills, illustrates some of this complexity.

Transportation costs loom large in lumber, accounting for 10 to 50 percent of the delivered price. However, lumber has considerable modal competition, depending upon where it originates and terminates. More than half of Washington lumber sold in California moves to market by barge, and one-third of Oregon lumber sold in California moves by truck.

Deregulation allowed railroads to build rate walls around their service territory with onerous joint-line rates and reciprocal switching fees. Railroads have done this to encourage more-profitable long-haul business and discourage less-profitable short-haul business. Lumber mills located on UP and BNSF come up against SP's rate walls if they want to ship to Southern California and Arizona; lumber mills on SP come up against UP's and BN's rate walls if they want to ship to the upper Midwest.

Suppose an SP-served lumber mill in Oregon wants to ship to a lumber yard in Los Angeles. SP's charge for this move is approximately \$2000 if the lumber yard is located on SP. If the lumber yard is on UP or BNSF, the shipper will have to pay an additional \$495 to have his car switched by UP or BNSF. Alternatively the shipper could truck to a UP reload in Portland, or arrange

to have the car delivered to an SP-served spur in Los Angeles, and truck from there to the lumber yard. Further, railroads are often less-than-zealous about making a speedy interchange with their competitors, in which case the joint-line shipper also pays a significant time penalty.

For large lumber producers with multiple locations, stiff joint-line rates and reciprocal switching fees are less problematic, because they can shift orders among their mills to achieve the most advantageous rate. Generally the merger holds fewer benefits for them because it lessens their leverage against UP and BNSF.

Small lumber mills are usually captive to one railroad (75 percent of Oregon mills are captive to SP). Rate walls severely constrict their market radius. Small mills are very sensitive to slow rail service because it constricts their cash flow, and anticipate that UP will

greatly improve transit times. In essence, they hope the merger will accomplish a sort of de facto reregulation, under which they have equal access to every market, with transportation costs based on mileage, not whose spur one happens to be on.

Richard B. Peterson, UP senior director of interline marketing, states in the application that UP will "significantly reduce" reciprocal switch charges upon merger and expects BNSF to do likewise. Rail rates in general have dropped significantly since deregulation. But there are no guarantees UP and BNSF will continue to cut rates to reflect expected post-merger efficiencies.

In contrast, rail rates have tended to rise since deregulation. A 1995 study found that after 1987, railroads increased rates on corn shipments by up to 25 percent where they had no waterway competition, and cut rates where they did have waterway competition. UP spokesman John Bromley notes that UP's principal emphasis post-merger will be competing with trucks: "To increase busi-

ness we must compete with trucks. In the past railroads have just traded business back and forth with each other instead of competing with trucks."

Apparently some shippers already have negotiated with UP about rates, and make their support letters contingent upon their expectations. Occidental Chemical states, "The UP has discussed with OxyChem its post-merger pricing philosophy. This philosophy provides OxyChem understanding of the UP's intent to not price their services to the detriment of shippers in the post-merger environment." It would be interesting to know more about UP's post-merger pricing philosophy, since the merger application does not address this crucial issue with any specificity. According to UP's Peterson, "The merger will produce cost reductions . . . [which] translates directly into stronger competition, because it will allow the merged railroad to invest more in better services and offer more attractive rates and service to shippers."

Shippers of low-value bulk commodities are glaring in their absence from the application's shipper support letters. For them the cost of transportation dwarfs the cost of the commodity. Powder River Basin coal costs \$3 to \$5 per ton at the Wyoming mine, and \$20 to 22 per ton delivered in Houston.

According to Resource Data International Inc. (RDI), an independent energy research firm, since 1989 SP's market share of Western high-Btu bituminous coal grew from 7 percent to 64 percent, while UP's share fell from 93 percent to 18 percent. (High-Btu bituminous coal currently accounts for about 15 percent of total Western rail-hauled coal.) SP did this by cutting rates and by reloading eastbound steam coal in westbound coking coal and taconite trains which deliver to Utah's Geneva Steel. At one time UP reloaded Geneva's taconite trains with Wyoming coal but gave it up because it considered the practice inefficient.

RDI believes if UP imposes its existing pricing structure for high-Btu Western coal

Who wrote to support UP+SP, and who didn't

- **Lumber and Building Materials, 237 firms.** Most of the 100 producers of lumber and paper supporting the merger are small to medium-size Pacific Northwest lumber mills. Major producers supporting: Georgia-Pacific, Louisiana Pacific's North West Division, Roseburg Lumber, Simpson Timber/Simpson Paper. Major shippers not writing: Boise Cascade, Champion International, International Paper, Jefferson Smurfit, Longview Fibre, Potlatch, Weyerhaeuser, Willamette Industries.

- **Grain, Food, and Agricultural Products, 223 firms.** Major marketers of grain, flour, and cereals supporting: ConAgra, Harvest States Cooperative, General Mills, Scoular; major firms not writing: Bartlett Grain, Cargill, Continental Grain, DeBruce Grain, Farmers' Rice, Farmland Industries, Louis Dreyfus, AGREX, Archer-Daniels-Midland, Kellogg's, Pillsbury, Quaker Oats, A. E. Staley. Fruit and vegetable packer/processor supporting: J. R. Simplot; not writing: Campbell's Soup, Del Monte, Heinz, Lamb-Weston, Ore-Ida, Tri-Valley Growers. Sugar producers supporting: Imperial Holly, Spreckels, C&H; not writing: Amalgamated Sugar. Brewers supporting: Coors, Stroh; not writing: Anheuser-Busch, Miller.

- **Petroleum and Chemicals, 119 firms.** Major refiners and chemical producers supporting: 3M, Bayer, Diamond Shamrock, Exxon Chemical, FMC, General Chemical, Hoechst Celanese, North American, Occidental, Owens-Illinois, Rhone-Poulenc, Total, Unocal, Vulcan; not writing: Amoco, BASF, Chevron, Conoco, Dow, DuPont, Eastman Chemical, Elf Aquitaine, Mobil, Monsanto, Olin, Phillips 66, Shell, Solvay, Stauffer, Texas Gulf, Texaco, Union Carbide, Vitro.

- **Minerals and Metals, 137 firms.** Supporters: Reynolds Alu-

minum, Northwest Aluminum, Oregon Steel (it owns rail-supplier CF&I), USS-Posco Industries, Nucor (Jewett, Texas), Chaparral Steel, Cascade Steel Rolling Mills, California Steel Industries. Not writing: Geneva Steel, Nucor (Norfolk, Nebr., and Plymouth, Utah). No major producer of copper, zinc, or lead wrote a letter; these firms include ASARCO, Cyprus, Eagle-Picher, Kennecott, Magma, Phelps-Dodge. Only one coal mine, Pacific Coast Coal Company of Seattle, wrote to support, and one major coal consumer, Grand River Dam Authority of Vinita, Okla.

- **Machinery and Manufacturing, 84 firms.** Automakers and importers supporting: General Motors, Hyundai, Isuzu, Mitsubishi, New United Motors, Nissan, Volkswagen; not writing: Chrysler, Ford, Honda, Mazda, Toyota. Aircraft firm McDonnell-Douglas wrote to support, Boeing did not. No major manufacturer of earthmoving or farm machinery wrote to support.

- **Distribution, Shipping, and Handling, 210 firms** (bulk terminal companies, transloaders, drayage firms, packaging companies, warehouses, logistics firms, intermodal marketing companies [IMC's]). Major IMC's supporting: Alliance Shippers, American President Lines, CSX Intermodal/Sea-Land, Evergreen, Hanjin, Hub Group, Hyundai, Mark VII Transportation, Mitsui OSK Lines, NYK Lines, Overseas Orient Container Lines, Riss Intermodal, Yellow Freight; not writing: J. B. Hunt, "K" Line, Lykes Bros., Maersk Line, Roadway Express, Schneider, United Parcel Service.

- **Miscellaneous, 16 firms** (10 recyclers of paper and tires, 4 waste handlers). Major firm supporting: Waste Management, Inc.; not writing: ECDC (East Carbon, Utah), UPCS (Clive, Utah, and a former UP subsidiary).

onto Utah and Colorado coal mines served by SP, their ability to compete with low-Btu coal from Powder River Basin mines will be greatly diminished. Most of the UP-served high-Btu coal mines in southern Wyoming have closed because of adverse rates. Moreover, UP plans to move SP's merchandise traffic to its Wyoming main line, so coal will have to pay most track maintenance costs on the old Denver & Rio Grande Western.

UP originally planned to reroute Geneva's coking coal and taconite trains through Wyoming to avoid stiff D&RGW grades, and return them east empty to avoid the complexities of car cleaning and reloading. "I don't understand [UP's] reasoning," said Utah's Gov. Leavitt on September 8, 1995, "but they say it is cheaper to go back empty than it is to haul Utah coal." UP has since changed its mind and announced it will reload the taconite trains.

If the merger might disadvantage Colorado and Utah coal mines, why aren't the Powder River Basin mines ardent supporters? For one, some of the major mine operators in the Basin are also major operators in Colorado and Utah, such as Cyprus Amax and Arco. Cyprus Amax also owns a shuttered mine in southern Wyoming. In addition, SP's low rates put pressure on UP's and BNSF's rates out of the Basin.

What shippers want is value for their transportation dollar. Value consists of a combination of service and rates unique to each shipper. The merger application weighs the equation heavily toward service, because SP's poor service and planned post-merger service improvements are a good issue on which to focus, and because if UP hopes to expand its market base it needs to compete with high-service motor carriers.

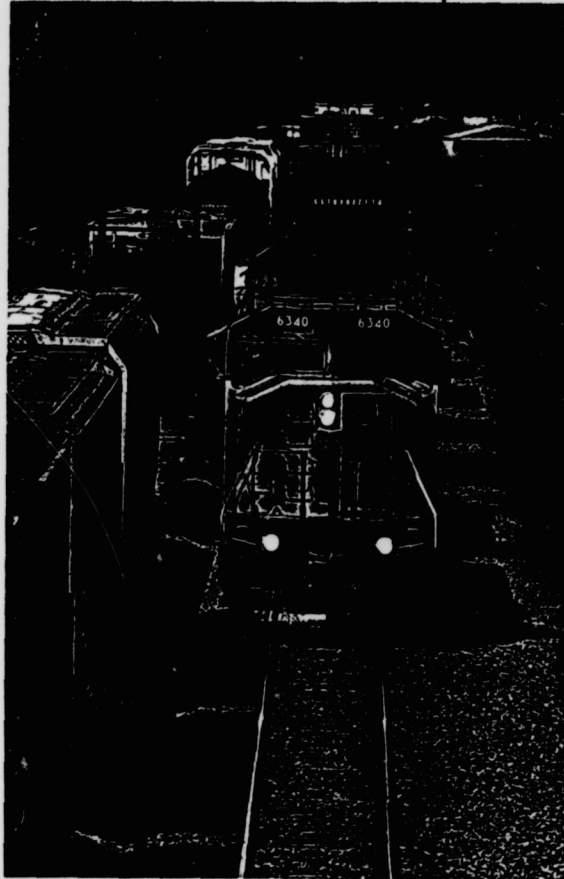
But it's reasonable to ask how important service really is. SP enjoys heavy traffic, and much of it from customers such as Utah's Geneva Steel and Kennecott Copper, which could just as readily ship UP. Clearly these customers knew about SP's poor service when they shipped yesterday's cars, so rates are an important part of their equation.

THE UP-SP MERGER would be hard to undo. Rail-dependent shippers will have no easy recourse should things not work out, as the obstacles to building a new large Western system are astronomical.

Many shippers fear the merger creates a Western duopoly and lays the groundwork for eventual reregulation. Robert A. Voltmann, director of policy development for the National Industrial Transportation League, believes the UP-SP merger points toward more mergers until only two major railroads remain in the U.S. "Then we would have two giants dividing the world," he says. "Is this really the way one fosters competition? The Staggers Act was a good thing in 1980 when railroads needed to be stronger. It worked, but how strong do railroads have to be?"

Alex Jordan, director of the Utah Mining Association and the Western Shippers' Coalition, was once a member of the Coalition

Many shippers fear the merger creates a Western duopoly and lays the groundwork for eventual reregulation



HOWARD ANDE

Against Revising Staggers, a group that lobbied to prevent reregulation. Now he heads a group of shippers concerned about anti-competitive effects of the UP-SP merger. "It's ironic," he says. "We worked so hard to avoid reregulation. But that's where we're headed. When shippers don't get service and railroads don't care, everyone and their lobbyists will head to Washington for a titanic clash. And then none of us will win."

Voltmann sees a way to avoid reregulation through open access. Under this concept, the railroad that owns the track rents track space to anyone who wants to run a train, similar to the deals freight carriers have with Amtrak and commuter railroads.

"Perhaps it's time we should consider open access," Voltmann proposes. "All of the other industries that transmit something over a fixed guideway—telecommunications, electrical utilities, pipelines, all of which are privately owned—are now or soon will be open to all in order to foster competition. So why not railroads? These other industries have figured out how to foster competition and avoid nationalization. Railroads can too."

What shippers have started to say is the balance of power between railroads and shippers has once again tipped too far toward railroads. The last time outraged shippers coalesced to fight railroad abuses, the result was 93 years of government regulation under the ICC, regulation which often was detrimental to railroads, their stockholders, shippers, and the public. If the UP-SP merger fuels the fire for reregulation, UP's stockholders might someday wish their managers had been more farsighted.

Despite its 8000 pages, the merger application asks broad questions it never answers. The ultimate question is if this merger is in the public interest, or indeed, even in the long-term interest of UP's security holders. Or, does this merger merely benefit a handful of SP stockholders and managers who stand to reap handsome profits, and UP managers who eliminate the low rates and aggressive marketing of a feisty competitor? **I**

MARK W. HEMPHILL has contributed seven bylines to *TRAINS* since 1984. His new book, "Union Pacific Salt Lake Route," is available from Boston Mills Press/Stoddard Publishing.

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4-29-96

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Item No. _____

Page Count 2

Apr #417

SLOVER & LOFTUS

ATTORNEYS AT LAW

1224 SEVENTEENTH STREET, N. W.

WASHINGTON, D. C. 20036

WILLIAM L. SLOVER
C. MICHAEL LOFTUS
DONALD G. AVERY
JOHN H. LE SEUR
KELVIN J. DOWD
ROBERT D. ROSENBERG
CHRISTOPHER A. MILLS
FRANK J. PERGOLIZZI
ANDREW B. KOLESAR III
PATRICIA E. KOLESAR
EDWARD J. McANDREW*

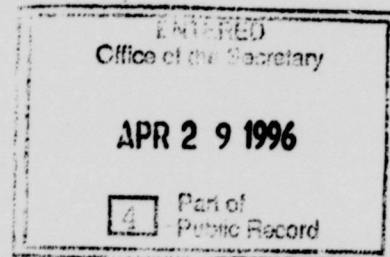
* ADMITTED IN PENNSYLVANIA ONLY

April 29, 1996



BY HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Case Control Branch
12th Street & Constitution Avenue, N.W.
Washington, D.C. 20423



Re: Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger --
Southern Pacific Rail Corporation, et al.

Dear Mr. Secretary:

In accordance with the Board's Decision No. 32 in the above-captioned proceeding, enclosed please find an original and five (5) copies of a Certificate of Service which indicates that service of a list of all numbered pleadings and discovery requests which have been filed or served by Colorado Springs Utilities was served upon each additional party of record to the captioned proceeding.

An extra copy of this letter and Certificate of Service is enclosed. Kindly indicate receipt and filing by time-stamping this extra copy and returning it to the bearer of this letter.

Thank you for your attention to this matter.

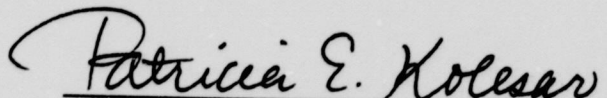
Sincerely,

John H. LeSeur
An Attorney for Colorado Springs
Utilities

Enclosure

CERTIFICATE OF SERVICE

In accordance with the Board's Decision No. 32 in Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger -- Southern Pacific Rail Corporation, et al., the undersigned attorney hereby certifies that on the 29th day of April, 1996, a list of all numbered pleadings and discovery requests which were filed or served on behalf of Colorado Springs Utilities was served via first class mail, postage prepaid, upon each additional party of record.


Patricia E. Kolesar
Patricia E. Kolesar

STB

FD

32760

4-29-96

J

82844

Item No. _____

Page Count 2

Apr #418

LOVER & LOFTUS

ATTORNEYS AT LAW

4 SEVENTEENTH STREET, N. W.

WASHINGTON, D. C. 20036

WIL

C. MICHAEL LOFTUS

DONALD G. AVERY

JOHN H. LE SEUR

KELVIN J. DOWD

ROBERT D. ROSENBERG

CHRISTOPHER A. MILLS

FRANK J. PERGOLIZZI

ANDREW B. KOLESAR III

PATRICIA E. KOLESAR

EDWARD J. MCANDREW*

April 29, 1996

* ADMITTED IN PENNSYLVANIA ONLY

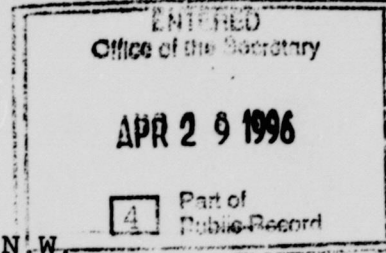


BY HAND DELIVERY

Honorable Vernon A. Williams
Secretary

Surface Transportation Board
Case Control Branch

12th Street & Constitution Avenue, N.W.
Washington, D.C. 20423



Re: Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger --
Southern Pacific Rail Corporation, et al.

Dear Mr. Secretary:

In accordance with the Board's Decision No. 32 in the above-captioned proceeding, enclosed please find an original and five (5) copies of a Certificate of Service which indicates that service of a list of all numbered pleadings and discovery requests which have been filed or served by City Utilities of Springfield, Missouri was served upon each additional party of record to the captioned proceeding.

An extra copy of this letter and Certificate of Service is enclosed. Kindly indicate receipt and filing by time-stamping this extra copy and returning it to the bearer of this letter.

Thank you for your attention to this matter.

Sincerely,

John H. LeSeur

An Attorney for City Utilities of
Springfield, Missouri

Enclosure

CERTIFICATE OF SERVICE

In accordance with the Board's Decision No. 32 in Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger -- Southern Pacific Rail Corporation, et al., the undersigned attorney hereby certifies that on the 29th day of April, 1996, a list of all numbered pleadings and discovery requests which were filed or served on behalf of City Utilities of Springfield, Missouri was served via first class mail, postage prepaid, upon each additional party of record.

Patricia E. Kolesar
Patricia E. Kolesar

STB

FD

32760

4-29-96

J

82843

Item No. _____

Page Count 2

APR # 419

OVER & LOFTUS

ATTORNEYS AT LAW

1224 SEVENTEENTH STREET, N.W.

WASHINGTON, D. C. 20036

WILLIAM L. ROYER
C. MICHAEL LOFTUS
DONALD G. AVERY
JOHN H. LE SEUR
KELVIN J. DOWD
ROBERT D. ROSENBERG
CHRISTOPHER A. MILLS
FRANK J. PERGOLIZZI
ANDREW B. KOLESAR III
PATRICIA E. KOLESAR
EDWARD J. MCANDREW*

* ADMITTED IN PENNSYLVANIA ONLY

April 29, 1996



BY HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Case Control Branch
12th Street & Constitution Avenue, N.W.
Washington, D.C. 20423

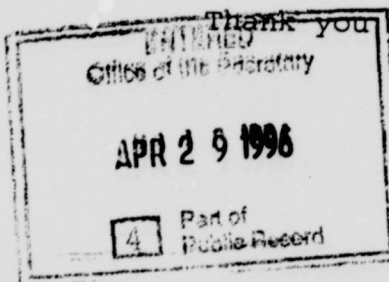
Re: Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger --
Southern Pacific Rail Corporation, et al.

Dear Mr. Secretary:

In accordance with the Board's Decision No. 32 in the above-captioned proceeding, enclosed please find an original and five (5) copies of a Certificate of Service which indicates that service of a list of all numbered pleadings and discovery requests which have been filed or served by City Public Service Board of San Antonio, Texas was served upon each additional party of record to the captioned proceeding.

An extra copy of this letter and Certificate of Service is enclosed. Kindly indicate receipt and filing by time-stamping this extra copy and returning it to the bearer of this letter.

Thank you for your attention to this matter.



Sincerely,

John H. LeSeur

John H. LeSeur
An Attorney for City Public Service
Board of San Antonio, Texas

Enclosure

CERTIFICATE OF SERVICE

In accordance with the Board's Decision No. 32 in Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger -- Southern Pacific Rail Corporation, et al., the undersigned attorney hereby certifies that on the 29th day of April, 1996, a list of all numbered pleadings and discovery requests which were filed or served on behalf of City Public Service Board of San Antonio, Texas was served via first class mail, postage prepaid, upon each additional party of record.

Patricia E. Kolesar
Patricia E. Kolesar

STB FD

32760

4-29-98

J

82842

Item No. _____

Page Count 2

Apr # 420

R & LOFTUS

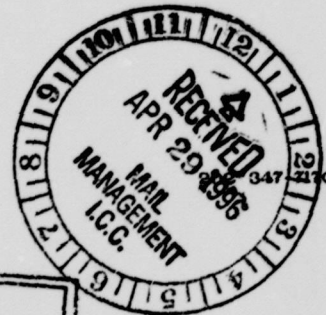
ATTORNEYS AT LAW

WILLIAM L. SLOVER
C. MICHAEL LOFTUS
DONALD G. AVERY
JOHN H. LE SEUR
KELVIN J. DOWD
ROBERT D. ROSENBERG
CHRISTOPHER A. MILLS
FRANK J. PERGOLIZZI
ANDREW B. KOLESAR III
PATRICIA E. KOLESAR
EDWARD J. MCANDREW*

1224 SEVENTEENTH STREET, N. W.
WASHINGTON, D. C. 20036

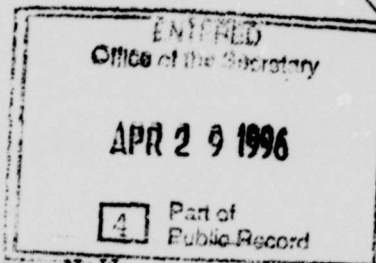
April 29, 1996

* ADMITTED IN PENNSYLVANIA ONLY



BY HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Case Control Branch
12th Street & Constitution Avenue, N.W.
Washington, D.C. 20423



Re: Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger --
Southern Pacific Rail Corporation, et al.

Dear Mr. Secretary:

In accordance with the Board's Decision No. 32 in the above-captioned proceeding, enclosed please find an original and five (5) copies of a Certificate of Service which indicates that service of a list of all numbered pleadings and discovery requests which have been filed or served by Entergy Services, Inc., and its affiliates Arkansas Power & Light Company and Gulf States Utilities Company was served upon each additional party of record to the captioned proceeding.

An extra copy of this letter and Certificate of Service is enclosed. Kindly indicate receipt and filing by time-stamping this extra copy and returning it to the bearer of this letter.

Thank you for your attention to this matter.

Sincerely,

Christopher A. Mills
An Attorney for Entergy Services, Inc.,
and its affiliates Arkansas Power &
Light Company and Gulf States
Utilities Company

Enclosure

CERTIFICATE OF SERVICE

In accordance with the Board's Decision No. 32 in Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger -- Southern Pacific Rail Corporation, et al., the undersigned attorney hereby certifies that on the 29th day of April, 1996, a list of all numbered pleadings and discovery requests which were filed or served on behalf of Entergy Services, Inc., and its affiliates Arkansas Power & Light Company and Gulf States Utilities Company was served via first class mail, postage prepaid, upon each additional party of record.

Patricia E. Kolesar
Patricia E. Kolesar

STB

FD

32760

4-29-96

J.

82841

Item No. _____

x

Page Count 2

And #421

OVER & LOFTUS

ATTORNEYS AT LAW

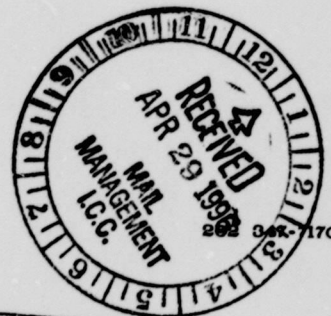
1224 SEVENTEENTH STREET, N. W.

WASHINGTON, D. C. 20036

WILLIAM L. SLOVER
C. MICHAEL LOFTUS
DONALD G. AVERY
JOHN H. LE SEUR
KELVIN J. DOWD
ROBERT D. ROSENBERG
CHRISTOPHER A. MILLS
FRANK J. PERGOLIZZI
ANDREW B. KOLESAR III
PATRICIA E. KOLESAR
EDWARD J. MCANDREW*

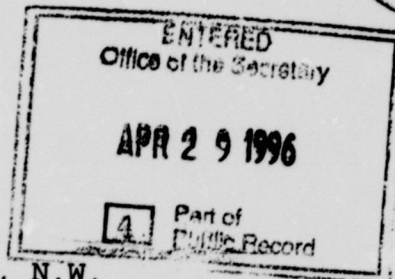
* ADMITTED IN PENNSYLVANIA ONLY

April 29, 1996



BY HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Case Control Branch
12th Street & Constitution Avenue, N.W.
Washington, D.C. 20423



Re: Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger --
Southern Pacific Rail Corporation, et al.

Dear Mr. Secretary:

In accordance with the Board's Decision No. 32 in the above-captioned proceeding, enclosed please find an original and five (5) copies of a Certificate of Service which indicates that service of a list of all numbered pleadings and discovery requests which have been filed or served by Public Service Company of Colorado was served upon each additional party of record to the captioned proceeding.

An extra copy of this letter and Certificate of Service is enclosed. Kindly indicate receipt and filing by time-stamping this extra copy and returning it to the bearer of this letter.

Thank you for your attention to this matter.

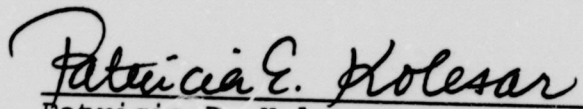
Sincerely,

Christopher A. Mills
An Attorney for Public Service Company
of Colorado

Enclosure

CERTIFICATE OF SERVICE

In accordance with the Board's Decision No. 32 in Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger -- Southern Pacific Rail Corporation, et al., the undersigned attorney hereby certifies that on the 29th day of April, 1996, a list of all numbered pleadings and discovery requests which were filed or served on behalf of Public Service Company of Colorado was served via first class mail, postage prepaid, upon each additional party of record.


Patricia E. Kolesar
Patricia E. Kolesar

STB

FD

32760

4-49-96

J

82840

Item No.

Page Count 2

Apr #422

LOVER & LOFTUS

ATTORNEYS AT LAW

SEVENTEENTH STREET, N. W.

WASHINGTON, D. C. 20036

WILLIAM
C. MICHAEL LOFTUS
DONALD G. AVERY
JOHN H. LE SEUR
KELVIN J. DOWD
ROBERT D. ROSENBERG
CHRISTOPHER A. MILLS
FRANK J. PERGOLIZZI
ANDREW B. KOLESAR III
PATRICIA E. KOLESAR
EDWARD J. McANDREW*

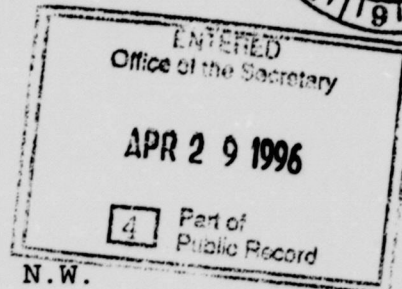
* ADMITTED IN PENNSYLVANIA ONLY

April 29, 1996



BY HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Case Control Branch
12th Street & Constitution Avenue, N.W.
Washington, D.C. 20423



Re: Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger --
Southern Pacific Rail Corporation, et al.

Dear Mr. Secretary:

In accordance with the Board's Decision No. 32 in the above-captioned proceeding, enclosed please find an original and five (5) copies of a Certificate of Service which indicates that service of a list of all numbered pleadings and discovery requests which have been filed or served by Commonwealth Edison Company was served upon each additional party of record to the captioned proceeding.

An extra copy of this letter and Certificate of Service is enclosed. Kindly indicate receipt and filing by time-stamping this extra copy and returning it to the bearer of this letter.

Thank you for your attention to this matter.

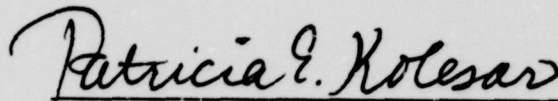
Sincerely,

Christopher A. Mills
An Attorney for Commonwealth Edison
Company

Enclosure

CERTIFICATE OF SERVICE

In accordance with the Board's Decision No. 32 in Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger -- Southern Pacific Rail Corporation, et al., the undersigned attorney hereby certifies that on the 29th day of April, 1996, a list of all numbered pleadings and discovery requests which were filed or served on behalf of Commonwealth Edison Company was served via first class mail, postage prepaid, upon each additional party of record.



Patricia E. Kolesar

STB

FD

32760

4-29-96

J

82839

Item No. _____

Page Count 2

Apr #423

82839

WILLIAM L. SLOVER
C. MICHAEL LOFTUS
DONALD G. AVERY
JOHN H. LE SEUR
KELVIN J. DOWD
ROBERT D. ROSENBERG
CHRISTOPHER A. MILLS
FRANK J. PERGOLIZZI
ANDREW B. KOLESAR III
PATRICIA E. KOLESAR
EDWARD J. McANDREW*

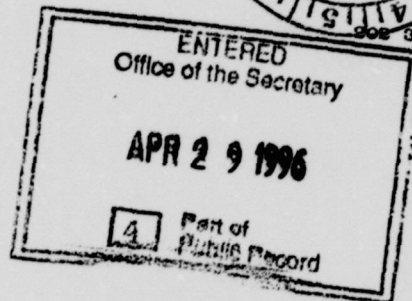
LOVER & LOFTUS

ATTORNEYS AT LAW
1224 SEVENTEENTH STREET, N. W.
WASHINGTON, D. C. 20036



*ADMITTED IN PENNSYLVANIA ONLY

April 29, 1996



BY HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Case Control Branch
12th Street & Constitution Avenue, N.W.
Washington, D.C. 20423

Re: Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger --
Southern Pacific Rail Corporation, et al.

Dear Mr. Secretary:

In accordance with the Board's Decision No. 32 in the above-captioned proceeding, enclosed please find an original and five (5) copies of a Certificate of Service which indicates that service of a list of all numbered pleadings and discovery requests which have been filed or served by Peabody Holding Company, Inc. was served upon each additional party of record to the captioned proceeding.

An extra copy of this letter and Certificate of Service is enclosed. Kindly indicate receipt and filing by time-stamping this extra copy and returning it to the bearer of this letter.

Thank you for your attention to this matter.

Sincerely,

C. Michael Loftus

C. Michael Loftus
An Attorney for Peabody Holding
Company, Inc.

Enclosure

CERTIFICATE OF SERVICE

In accordance with the Board's Decision No. 32 in Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger -- Southern Pacific Rail Corporation, et al., the undersigned attorney hereby certifies that on the 29th day of April, 1996, a list of all numbered pleadings and discovery requests which were filed or served on behalf of Peabody Holding Company, Inc. was served via first class mail, postage prepaid, upon each additional party of record.

Patricia E. Kolesar
Patricia E. Kolesar

STB

FD

32760

4-29-96

J

82838

Item No. _____

Page Count 2

Apri # 432

WILLIAM L. SLOVER
C. MICHAEL LOFTUS
DONALD G. AVERY
JOHN H. LE SEUR
KELVIN J. DOWD
ROBERT D. ROSENBERG
CHRISTOPHER A. MILLS
FRANK J. PERGOLIZZI
ANDREW B. KOLESAR III
PATRICIA E. KOLESAR
EDWARD J. McANDREW*

OVER & LOFTUS

ATTORNEYS AT LAW

1224 SEVENTEENTH STREET, N. W.
WASHINGTON, D. C. 20036



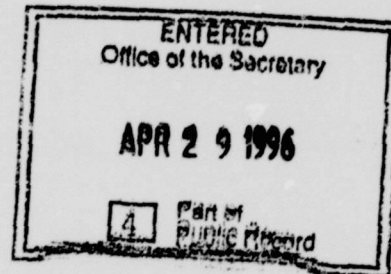
202 347-7170

April 29, 1996

* ADMITTED IN PENNSYLVANIA ONLY

BY HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Case Control Branch
12th Street & Constitution Avenue, N.W.
Washington, D.C. 20423



Re: Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger --
Southern Pacific Rail Corporation, et al.

Dear Mr. Secretary:

In accordance with the Board's Decision No. 32 in the above-captioned proceeding, enclosed please find an original and five (5) copies of a Certificate of Service which indicates that service of a list of all numbered pleadings and discovery requests which have been filed or served by Central Power & Light Company was served upon each additional party of record to the captioned proceeding.

An extra copy of this letter and Certificate of Service is enclosed. Kindly indicate receipt and filing by time-stamping this extra copy and returning it to the bearer of this letter.

Thank you for your attention to this matter.

Sincerely,

C. Michael Loftus

C. Michael Loftus
An Attorney for Central Power & Light
Company

Enclosure

CERTIFICATE OF SERVICE

In accordance with the Board's Decision No. 32 in Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger -- Southern Pacific Rail Corporation, et al., the undersigned attorney hereby certifies that on the 29th day of April, 1996, a list of all numbered pleadings and discovery requests which were filed or served on behalf of Central Power & Light Company was served via first class mail, postage prepaid, upon each additional party of record.

Patricia E. Kolesar
Patricia E. Kolesar

STB

FD

32760

4-29-96

J

82836

82836

Item No. _____
VER & LOFTUS
ATTORNEYS AT LAW
VENTEENTH STREET, N. W.
WASHINGTON, D. C. 20036

WILLIAM
C. MICH
DONALD
JOHN H. L. SEUR
KELVIN J. DOWD
ROBERT D. ROSENBERG
CHRISTOPHER A. MILLS
FRANK J. PERGOLIZZI
ANDREW B. KOLESAR III
PATRICIA E. KOLESAR
EDWARD J. MCANDREW*

Page Count 2
ADR #438



April 29, 1996

* ADMITTED IN PENNSYLVANIA ONLY

BY HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Case Control Branch
12th Street & Constitution Avenue, N.W.
Washington, D.C. 20423

ENTERED	
Office of the Secretary	
APR 29 1996	
5	Part of Public Record

Re: Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger --
Southern Pacific Rail Corporation, et al.

Dear Mr. Secretary:

In accordance with the Board's Decision No. 32 in the above-captioned proceeding, enclosed please find an original and five (5) copies of a Certificate of Service which indicates that service of a list of all numbered pleadings and discovery requests which have been filed or served by Lower Colorado River Authority and the City of Austin, Texas was served upon each additional party of record to the captioned proceeding.

An extra copy of this letter and Certificate of Service is enclosed. Kindly indicate receipt and filing by time-stamping this extra copy and returning it to the bearer of this letter.

Thank you for your attention to this matter.

Sincerely,

C. Michael Loftus

C. Michael Loftus
An Attorney for Lower Colorado River
Authority and the City of Austin,
Texas

Enclosure

CERTIFICATE OF SERVICE

In accordance with the Board's Decision No. 32 in Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger -- Southern Pacific Rail Corporation, et al., the undersigned attorney hereby certifies that on the 29th day of April, 1996, a list of all numbered pleadings and discovery requests which were filed or served on behalf of Lower Colorado River Authority and the City of Austin, Texas was served via first class mail, postage prepaid, upon each additional party of record.

Patricie E. Kolesar
Patricia E. Kolesar

STB

FD

32760

4-29-96

J

82834

Item No. _____

Page Count 2

Mr # 437

SLOVER & LOFTUS

ATTORNEYS AT LAW

1224 SEVENTEENTH STREET, N. W.

WASHINGTON, D. C. 20036

WILLIAM L. SLOVER
C. MICHAEL LOFTUS
DONALD G. AVERY
JOHN H. LE SEUR
KELVIN J. DOWD
ROBERT D. ROSENBERG
CHRISTOPHER A. MILLS
FRANK J. PERGOLIZZI
ANDREW B. KOLESAR III
PATRICIA E. KOLESAR
EDWARD J. MCANDREW*

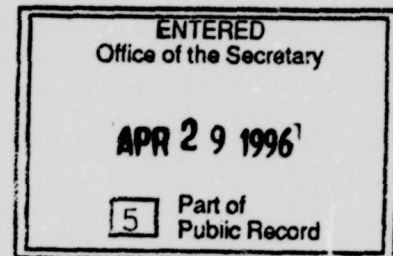
* ADMITTED IN PENNSYLVANIA ONLY

April 29, 1996



BY HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Case Control Branch
12th Street & Constitution Avenue, N.W.
Washington, D.C. 20423



Re: Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger --
Southern Pacific Rail Corporation, et al.

Dear Mr. Secretary:

In accordance with the Board's Decision No. 32 in the above-captioned proceeding, enclosed please find an original and five (5) copies of a Certificate of Service which indicates that service of a list of all numbered pleadings and discovery requests which have been filed or served by Wisconsin Power & Light Company was served upon each additional party of record to the captioned proceeding.

An extra copy of this letter and Certificate of Service is enclosed. Kindly indicate receipt and filing by time-stamping this extra copy and returning it to the bearer of this letter.

Thank you for your attention to this matter.

Sincerely,

C. Michael Loftus
An Attorney for Wisconsin Power & Light Company

Enclosure

CERTIFICATE OF SERVICE

In accordance with the Board's Decision No. 32 in Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger -- Southern Pacific Rail Corporation, et al., the undersigned attorney hereby certifies that on the 29th day of April, 1996, a list of all numbered pleadings and discovery requests which were filed or served on behalf of Wisconsin Power & Light Company was served via first class mail, postage prepaid, upon each additional party of record.

Patricia E. Kolesar
Patricia E. Kolesar

STB

FD

32760

4-29-96

J

82833

Item No. _____

Page Count 2

Apr # 436

ER & LOFTUS

ATTORNEYS AT LAW

1224 SEVENTEENTH STREET, N. W.

WASHINGTON, D. C. 20036

WILLIAM L. _____
C. MICHAEL LOFTUS
DONALD G. AVERY
JOHN H. LE SEUR
KELVIN J. DOWD
ROBERT D. ROSENBERG
CHRISTOPHER A. MILLS
FRANK J. PERGOLIZZI
ANDREW B. KOLESAR III
PATRICIA E. KOLESAR
EDWARD J. McANDREW*

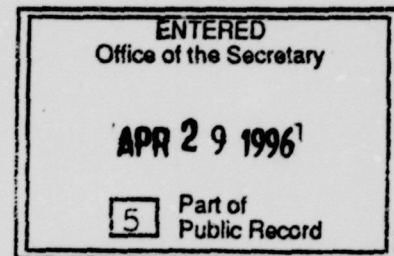
* ADMITTED IN PENNSYLVANIA ONLY

April 29, 1996



BY HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Case Control Branch
12th Street & Constitution Avenue, N.W.
Washington, D.C. 20423



Re: Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger --
Southern Pacific Rail Corporation, et al.

Dear Mr. Secretary:

In accordance with the Board's Decision No. 32 in the above-captioned proceeding, enclosed please find an original and five (5) copies of a Certificate of Service which indicates that service of a list of all numbered pleadings and discovery requests which have been filed or served by Arizona Electric Power Cooperative, Inc. was served upon each additional party of record to the captioned proceeding.

An extra copy of this letter and Certificate of Service is enclosed. Kindly indicate receipt and filing by time-stamping this extra copy and returning it to the bearer of this letter.

Thank you for your attention to this matter.

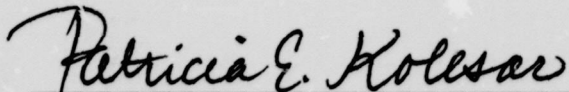
Sincerely,

C. Michael Loftus
An Attorney for Arizona Electric Power
Cooperative, Inc.

Enclosure

CERTIFICATE OF SERVICE

In accordance with the Board's Decision No. 32 in Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger -- Southern Pacific Rail Corporation, et al., the undersigned attorney hereby certifies that on the 29th day of April, 1996, a list of all numbered pleadings and discovery requests which were filed or served on behalf of Arizona Electric Power Cooperative, Inc. was served via first class mail, postage prepaid, upon each additional party of record.


Patricia E. Kolesar
Patricia E. Kolesar

STB FD

32760

4-29-96

J

82831

Item No. _____

Page Count 2

Apr # 435

82831

SLOVER & LOFTUS

ATTORNEYS AT LAW

1224 SEVENTEENTH STREET, N. W.

WASHINGTON, D. C. 20036



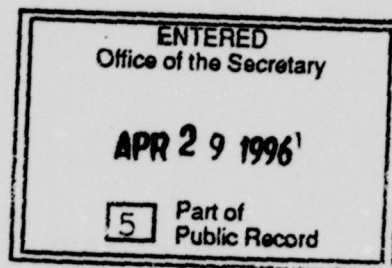
WILLIAM L. SLOVER
C. MICHAEL LOFTUS
DONALD G. AVERY
JOHN H. LE SEUR
KELVIN J. DOWD
ROBERT D. ROSENBERG
CHRISTOPHER A. MILLS
FRANK J. PERGOLIZZI
ANDREW B. KOLESAR III
PATRICIA E. KOLESAR
EDWARD J. MCANDREW*

April 29, 1996

* ADMITTED IN PENNSYLVANIA ONLY

BY HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Case Control Branch
12th Street & Constitution Avenue, N.W.
Washington, D.C. 20423



Re: Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger --
Southern Pacific Rail Corporation, et al.

Dear Mr. Secretary:

In accordance with the Board's Decision No. 32 in the above-captioned proceeding, enclosed please find an original and five (5) copies of a Certificate of Service which indicates that service of a list of all numbered pleadings and discovery requests which have been filed or served by the Western Coal Traffic League was served upon each additional party of record to the captioned proceeding.

An extra copy of this letter and Certificate of Service is enclosed. Kindly indicate receipt and filing by time-stamping this extra copy and returning it to the bearer of this letter.

Thank you for your attention to this matter.

Sincerely,

C. Michael Loftus

C. Michael Loftus
An Attorney for the Western Coal Traffic League

Enclosure

CERTIFICATE OF SERVICE

In accordance with the Board's Decision No. 32 in Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger -- Southern Pacific Rail Corporation, et al., the undersigned attorney hereby certifies that on the 29th day of April, 1996, a list of all numbered pleadings and discovery requests which were filed or served on behalf of the Western Coal Traffic League was served via first class mail, postage prepaid, upon each additional party of record.

Patricia E. Kolesar
Patricia E. Kolesar

STB

FD

32760

4-11-96

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Item No. _____

Page Count 1

Apr # 262



UTILITIES

April 4, 1996

Office of the Secretary
Case Control Branch
Attn: Finance Docket No. 32760
Interstate Commerce Commission
1201 Constitution Avenue, N.W.
Washington, DC 20423

RE: Docket No. 32760
Statement of Opposition

Dear Secretary:

Enclosed for filing is a disk containing IES Utilities Inc.'s Statement of Opposition in WordPerfect 5.1/5.2 format. If you have any questions, please don't hesitate to call me at (319) 398-4327.

Very truly yours,

Tobin Lee Britt
Attorney

TLB/jws
Enclosure



81315
IES Utilities Inc.

200 First Street S.E.

P.O. Box 351

Cedar Rapids, IA 52406-0351

Telephone 319 398 4411

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Page Count 13
Apr #256

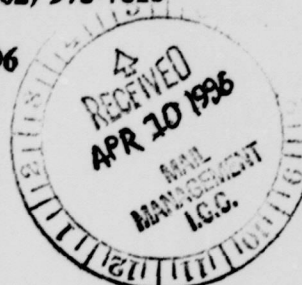
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April 10, 1996



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Constance Abrams Jonathan Broder Edward Hymson	Consolidated Rail Corp.	215-209-4817	215-209-2000
Daniel Meyers William Kolasky A. Stephen Hur Ali Stoeppelwerth Steven Finizio	Wilmer, Cutler & Pickering	202-663-6363	202-663-6000
John Ongman	Pepper, Hamilton & Schretz	202-828-1665	202-828-1415
Erika Jones Adrian Steel Roy Englen Kathryn Kusake	Mayer, Brown & Platt	202-861-0473	202-463-2000
C. Michael Loftus John LeSeur Christopher Mills	Slover & Loftus	202-347-3619/8292	202-347-7170
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Kevin Sheys Thomas Lawrence	Oppenheimer, Wolff & Donnelly	202-293-6200	202-293-6300
Peter Shultz	CSX Corporation	804-783-1355	804-783-1343
Richard Weicher	Santa Fe Corporation	708-995-6540	708-995-6887
Janice Barber	Burlington Northern Railroad	817-333-5142	817-878-7954
Mark Tobey	Office of Attorney General, Texas	512-320-0975	512-463-2185
Lindsay Bower	Office of Attorney General, California	415-356-6377/6370	415-356-6000
Fritz R. Kahn	Fritz R. Kahn	202-371-0900	
William Cottrell	Office of Attorney General, Illinois	312-814-2593	312-814-4323
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Paul Donovan	LaRoe, Winn, Moerman & Donovan	202-362-3050	202-362-3010
John E. Smith	Enterprise Products	713-880-6570	713-880-6500
Edward S. Christenbury Charles L. Young	Tennessee Valley Authority	423-632-2422	423-632-7304
Fred E. Watson	Phillips Petroleum	918-661-7918	918-661-6732
James Craig	Cen-Tex/South Orient	214-528-0770	214-528-2888
Andrew P. Goldstein	McCarthy, Sweeney & Harkaway	202-393-5721	202-393-5710

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HARKINS CUNNINGHAM

ATTORNEYS AT LAW
SUITE 600
1300 NINETEENTH STREET, N.W.
WASHINGTON, D.C. 20036-1609
202 973-7600
FACSIMILE 202 973-7610



WRITER'S DIRECT DIAL
(202) 973-7605

1800 ONE COMMERCE SQUARE
2005 MARKET STREET
PHILADELPHIA, PA 19103-7042
215 851-6700
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April 10, 1996

VIA FACSIMILE

The Honorable Jerome Nelson
Administrative Law Judge
Federal Energy Regulatory Commission
Room 11F21
888 First Street, N.E.
Washington, D.C. 20426

Re: Finance Docket No. 32760, Union Pacific Corp.,
et al. -- Control & Merger -- Southern Pacific
Corp., et al.

Dear Judge Nelson:

This is to advise you about a variety of discovery disputes that applicants will ask you to decide at the conference scheduled for 9:30 a.m. on April 12, if we are unable to resolve them in the meantime.

As Your Honor is aware, on and after the March 29 deadline more than 125 comments, requests for conditions, or responsive applications were filed, many of them quite voluminous. Applicants worked over that weekend and have been working steadily since to copy, distribute, read and analyze these materials, as well as the information made available in depositories and in response to our first set of discovery requests. We did not receive some of these materials until well into the week of April 1.

On April 3 we served our second set of discovery requests (UP/SP-200), consisting of consolidated and revised versions of many of the requests that Your Honor had ruled on March 8 could be re-served after the March 29 filings, plus additional requests prompted by those filings. On April 4 we served a third set (UP/SP-203) consisting primarily of requests included in the first or second sets, but directed to parties who had not been served with the earlier requests. In the days

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The Honorable Jerome Nelson
April 10, 1996
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following we served several additional, more-limited requests addressed primarily to particular issues raised by specific filings (UP/SP-207, 209, 210, 211).

Applicants included in each set a reference to Your Honor's directions at the March 8 hearing that responses be served within six calendar days, that claims of burden should "be detailed as to time, money, physical limitations, geography, or any other factors making the alleged burden" (Tr. 2061), and that parties must bring to the hearing those documents for which they make claims of irrelevance or privilege, so that they can be reviewed as needed and produced immediately (Tr. 2056). (See discussion of privilege below.)

At this point, we are addressing for the most part only the responses to the first and second sets. The issues fall within certain general categories, which we will discuss in turn.¹

Failure to respond

Cen-Tex/South Orient failed to respond by April 9 to the second set, having also failed to comply with Your Honor's direction to respond to the first set by April 5.

Although we are told that responses are forthcoming, KCS has thus far failed without explanation to respond to the second set, served April 3.

When this letter was finalized (around 6:00 p.m.) we also had not received responses to the third set, due by 5:00 p.m. today, from the following parties: Central Power & Light; City Public Service Board of San Antonio, Dow Chemical Co., Kansas City Southern Railway, Montell, Quantum, Phillips, Public Service of Colorado, Texas Railroad Commission. We expect that most will arrive later tonight, as happened yesterday.

Communications with government officials

WSC argued previously that the duty to produce otherwise non-privileged documents relating to communications or

¹Although an issue concerning association obligations to seek information from members was deferred at a prior hearing, applicants have decided not to press it further in view of the responses to the second set.

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April 10, 1996
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meetings with government officials (called for by Doc. Reqs. 14-15 in the second and third sets) breaches the First Amendment.²

WSC initially sought an immediate ruling on these and other requests on the ostensible ground that they were "chilling" WSC and its members in the exercise of their First Amendment rights, particularly in connection with some ongoing or imminent meetings with government officials.³ (No railroad party made any purported showing of potential "chilling.") At the March 6 hearing Your Honor expressed doubts about WSC's "chilling" argument, but deferred a ruling for a few days to have a chance to reflect on the issue, and because it was thought by WSC and the railroad parties that a ruling on the "prematurity" argument raised by Conrail as a bar to any discovery, scheduled to be considered on March 8, might moot the issue by deferring all of applicants' discovery (Tr. 1839-41, 1846). At the March 8 hearing Your Honor did not accept the prematurity argument as a total bar to discovery. However, the "constitutional" issues were deferred until "phase 2" (see Tr. 1942, 1983-92).

Upon reflection, applicants believe that it is even more apparent that there can be no valid "chilling" objection, and it is evident that the principal effect of the pendency of the "chilling" argument has been to block applicants from obtaining in a timely way the same type of discovery that applicants were called upon to answer and that Your Honor ruled on March 8 we are entitled to have.

The information requested is surely relevant. In requiring Conrail to respond on March 12 to Document Request 55 in the first set, for example, Your Honor specifically ruled that applicants "are entitled to show the Board that you go around the country making statements about them which you cannot back up if that's what the discovery process produces. That's fair." (Tr. 2047). Yet that is exactly what Requests 14 and 15 in the second and third sets seek to do. Moreover, those requests are almost

²The issues were aired principally in WSC's letter of March 4 and applicants' letter of March 5, concerning similar requests in applicants' first set of requests.

³The constitutional issue can plausibly be raised only as to communications with federal or state government officials. Counsel for Conrail candidly acknowledged at the March 8 hearing that "I'm sure I could not suggest a constitutional issue as to a railroad's communications with a shipper" (Tr. 1983-84).

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identical in substance to KCS Interrogatories 2 and 3, to which applicants responded, putting substantial materials in their depository, where it has been subject to review by WSC and any other party.⁴

Any concern about the asserted "chilling" effect of these requests can be addressed by limiting them to documents existing as of the April 12 hearing. The "chilling" argument has meaning only on a prospective basis. As Your Honor observed on March 6, "if there is [a 'chilling' effect], it's only in effect for the next couple of working days until we get this resolved" (Tr. 1840). Moreover, if a party was or is "chilled" from making a presentation, there will be nothing to produce; there will be responsive documents only if it was not "chilled."

In considering claims of "chilling," Your Honor should note that we deal here with "speech" by corporations that is motivated by essentially commercial purposes. This is significant, for the Supreme Court has made clear that such commercially motivated speech is entitled to a lesser degree of protection than traditional political speech, because it has strong economic incentives that make it less susceptible to "chilling." See, e.g., Virginia State Bd. of Pharmacy v. Virginia Citizens Consumer Council, Inc., 425 U.S. 748, 771-72 (1976).⁵

In requesting that Your Honor reject the "chilling" argument, we do not suggest that the responding parties are not free to assert applicable privileges that they may have a good

'At a minimum, KCS, which did not invoke the First Amendment in its objections, ought not to be allowed now to assert any constitutional or other asserted infirmity in requests that mirror those it called upon applicants to answer.

'As applicants have noted, the so-called "Noerr-Pennington" First Amendment-based exception to antitrust liability based on the right to petition the government does not apply to bar discovery. See, e.g., North Carolina Elec. Membership Coop. v. Carolina Power & Light Co., 666 F.2d 50, 52-53 (4th Cir. 1981); General Motors Corp. v. Johnson Matthey, Inc., 887 F. Supp. 1240, 1245-46 (E.D. Wis. 1995) (corporation sanctioned for refusing to comply with discovery order re lobbying documents; First Amendment claim not substantially justified as a legal matter).

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Page 5

faith basis for invoking.⁶ However, it cannot be assumed that everything that might be covered by these requests would be protected by some privilege. The attorney-client privilege would ordinarily be waived by disclosure of material to a third party, unless it were shown to be covered by an agreement or other circumstances within the "common interest/joint defense" exception to the waiver doctrine. A similar situation exists with respect to work product. Insofar as the requests cover presentations, etc., to federal or state governments, it is difficult to see how they could be brought within the confines of that exception.

There remains the possibility that some such presentations might be covered by the "informers" privilege, but that does not grant blanket immunity to every bit of information a party volunteers to a government employee. It applies only if there is a promise of confidentiality, which, even in criminal matters, must be proven and cannot be presumed. United States Dep't of Justice v. Landano, 113 S. Ct. 2014, 2021-23 (1993).⁷

For the foregoing reasons, applicants ask that Your Honor require parties who have objected to respond immediately to Document Requests 14 and 15 in the second and third sets insofar as they relate to presentations, etc., to federal or state governments, by producing such materials unless there is a basis for claiming an applicable privilege that has not been waived.

Information about communications, agreements with other parties

WSC has refused to produce information about agreements with other parties, particularly in response to Interrogatory 1 and Document Request 20 in the second and third sets. These refusals are without merit for essentially the same reasons as just discussed concerning communications to governments. Such documents or information must be produced unless protected by an applicable privilege that has not been waived.

⁶There can be no plausible claim that the requests, as limited, are unduly burdensome. They cover a limited period of time, and a discrete category of documents.

⁷Beyond that, the informers privilege is not a wholesale bar to discovery, but protects primarily the identity of the informer, generally through redaction, as Your Honor noted (Tr. 1788).

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Information about association finances

WSC has objected on First Amendment grounds to Interrogatory 1 in the fifth set, which asks:

Do you have any information about any offers made by or on behalf of any party to this proceeding opposing the UP/SP merger, or anyone affiliated with such party, to provide funds or other consideration to another such party to help finance its opposition efforts, and, if so, state that information and identify (and produce) any documents referring or relating to such offers. [You may exclude offers made to an association party by its members, or offers to finance work which was proffered to the Board as being jointly sponsored by the parties involved in the offer.] [Cen-Tex, CR, KCS, MRL, Tex Mex, CCRT, CMA, NITL, SPI, STRICT, WCTL, WSC]

The First Amendment interests invoked by WSC and others are not infringed by this limited inquiry, which excludes funding by members or in connection with work that openly is jointly sponsored. It covers such matters, for example, as one of the railroad parties paying or offering to pay an association it does not belong to, in order to finance submissions that would appear on their face to be the work of the association, not of the railroad.

WSC has tendered no factual basis for apprehending harm from such disclosure. The information is relevant. Here, too, the inquiry does not significantly trench upon First Amendment interests, and is warranted by substantial, legitimate grounds. In weighing association comments, the Board is entitled to know if, for example, substantially all of the financial support for an association comes from one or more particular companies or industries (whether members or non-members), and whether the association is being used as a stalking horse for interests not fully disclosed.

WSC and CCRT also object to inquiries about their funding (Int. No. 18 to CCRT in the first set, Int. 5 to WSC in the first set).⁸ For reasons just noted, their objections are unfounded, particularly at this late date when these

⁸Kennecott refused to answer No. 26 in the second set on the same grounds.

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organizations have done most of the work for which they were created and for which funds were contributed. No association party has refused to identify its members, although CCRT has refused to identify members who dropped out, as requested in Interrogatory 3 in the first. This claim also lacks merit.

Generally inadequate response

The original and supplemental responses of KCS to the first set indicate that, for the great bulk of the requests, KCS did not search its files; it responded repeatedly by general reference to its Comments filed March 29. We have not yet had an opportunity to see if these deficiencies are cured by KCS's responses to the second set, which we have had no opportunity to review and discuss.

KCS has thus far also failed to produce machine-readable versions of the data from government records relating to the verified statement of its retained expert witness Ploth, on the ground that the computer tapes or disks are within the custody of its witness, not of KCS itself, and the witnesses are unwilling to provide them even under a protective order. KCS has not shown any justification for the withholding, has not demonstrated that such tapes are not subject to its control, and should be required to produce them. We are discussing this issue with KCS, but may need a ruling.

Privilege claims

At this time, with one exception, applicants do not intend to question the claims of attorney-client privilege or work product made in evident good faith by the parties and their counsel, in view of the potential burden involved for all concerned. Accordingly, parties need not bring assertedly privileged documents to the April 12 hearing. If we have any particular issues to raise we will defer them for a later hearing.

The exception concerns assertions that disclosures of otherwise privilege attorney-client or work product information has not waived the privilege, or is independently protected against discovery, because the disclosure was subject to the common interest/joint defense exception. This exception has been

HARKINS CUNNINGHAM

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Page 8

invoked by a number of parties,⁹ particularly as to Document Requests 12-15 in the second (and third) set. However, this doctrine operates only as exception to what would be a waiver of privilege, not as an independent privilege precluding discovery. Moreover, no one has identified or even asserted the existence of an agreement, which is the usual predicate of claims of joint defense or common interest; indeed, some parties go so far as to object to answering inquiries about the existence of any agreement. While there may be authority for invoking this exception even without an agreement, no one has cited authority for its invocation in such a broad and amorphous manner as is pressed here.

Production of Minehead coal prices

Several requests in the first and second sets asked coal shippers about minehead prices. While some have responded, most have not, largely on grounds of confidentiality.¹⁰ In some cases, an order to produce may be deemed necessary to override confidentiality provisions in private contracts. Your Honor has already required production of highly confidential price data concerning coal, subject to the protective order. Fairness requires that applicants have access to similar data that they need.

Studies of SP financial position

Document Requests 11, 17 and 27 in the second set seek documents addressing various aspects of SP's financial position or value, which is a significant issue in the proceeding. Conrail has not objected on grounds of relevance or burden. Rather, Conrail objected to No. 11 insofar as "it called for information relating to Conrail's future plans." As to No. 12, Conrail cited the fact that it made an offer to UP last year to purchase certain SP lines, which UP rejected, but which Conrail is relying upon in its March 29 filings. Applicants are entitled to probe the foundation of Conrail's assertions about the value of the SP lines. No. 27 calls for similar documents. The fact that documents may relate to the subject matter of an

⁹WSC, CCRT, Conrail, Dow, Kennecott, Sierra Pacific, Tex-Mex.

¹⁰Those having declined or failed to produce such data are Arizona Electric Power, Entergy, Wisconsin Public Service. A similar request to Kennecott is pending.

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The Honorable Jerome Nelson
April 10, 1996
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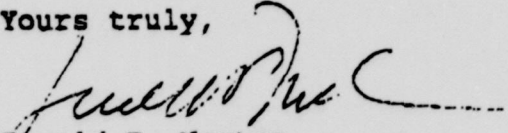
unsuccessful offer to negotiate does not immunize them from discovery in this proceeding.

Other Particular issues

Relatively few parties refused to search for or produce non-privileged information or documents requested. We are discussing those requests in an attempt to resolve the disputes, and have been able to resolve a number of potential disputes. If we are unable to do so as to these, we may seek rulings as to the parties and additional responses identified in the attached list.

As discussed with Your Honor's clerk, we will provide you before the hearing an appendix setting forth the relevant requests and responses.

Yours truly,


Gerald P. Norton

cc: Restricted Service List
Other recipients of discovery in issue

HARKINS CUNNINGHAM

The Honorable Jerome Nelson
April 10, 1996
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INTERROGATORIES

5 Conrail
16 Conrail

DOCUMENT REQUESTS

23 Conrail
30 Conrail, UCC
40 Conrail
55 DOW, UCC

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82681



Minnesota Department of Transportation

Office of Railroads and Waterways

82481

Phone: 612/ 296-0355

Fax: 612/ 297-1887

Item No. _____

Page Count 1

Apr #257

April 4, 1996

Vernon A. Williams
Secretary
Surface Transportation Board
1201 Constitution Ave. N.W.
Washington, D.C. 20423



RE: Financial Docket 32760

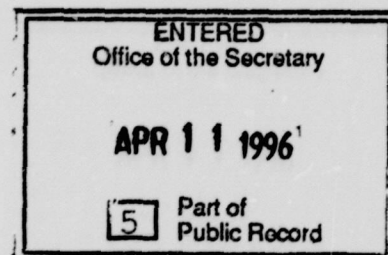
Dear Secretary Williams:

As instructed by the STB, enclosed is a 3.5" computer disk containing "WordPerfect 5.1" version of the State of Minnesota's filing on the above referenced matter. The original and twenty copies of this filing were submitted on March 29, 1996.

If you have any questions, please feel free contact me.

Sincerely,

Al Vogel
Director



STB

FD

32760

4-10-96

J

81311

Item No. _____

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Apr #250

UTLER & PICKERING

2445 M STREET, N.W.
WASHINGTON, D.C. 20037-1420

TELEPHONE (202) 663-6000
FACSIMILE (202) 663-6363

A. STEPHEN HUT, JR.
DIRECT LINE (202)
663-6235

81311
4 CARLTON GARDENS
LONDON SW1Y 5AA
TELEPHONE 011 (4471) 839-4466
FACSIMILE 011 (4471) 839-3537

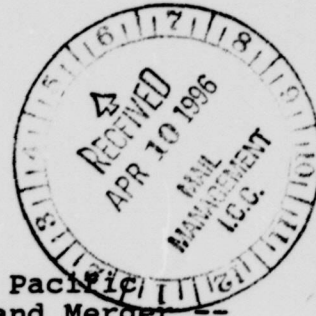
RUE DE LA LOI 15 WETSTRAAT
B-1040 BRUSSELS
TELEPHONE 011 (322) 231-0903
FACSIMILE 011 (322) 230-4322

FRIEDRICHSTRASSE 95
BRIEFKASTEN 29
D-10117 BERLIN
TELEPHONE 011 (4930) 2643-3601
FACSIMILE 011 (4930) 2643-3630

April 10, 1996

VIA HAND DELIVERY

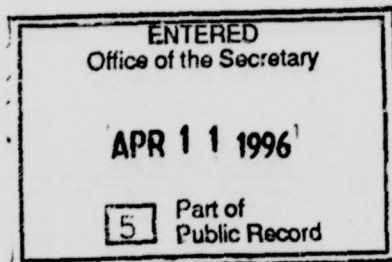
Mr. Vernon A. Williams
Secretary
Surface Transportation Board
Case Control Branch
Room 1324
1201 Constitution Avenue, N.W.
Washington, D.C. 20423



Re: Finance Docket No. 32760, Union Pacific
Corporation, et al. -- Control and Merger --
Southern Pacific Rail Corporation, et al.

Dear Secretary Williams:

Enclosed for filing in the above-captioned case are one original and twenty copies of the Joint Motion of the National Industrial Transportation League, the Society of Plastics Industries, the Western Shippers' Coalition, Dow Chemical Company, International Paper Company, Kennecott Energy Company, the Kansas City Southern Railway Co., and Consolidated Rail Corporation for Clarification of Decision No. 6. This motion has been designated as document NTTL-13, SPI-14, WSC-14, DOW-15, IP-13, KENN-14, KCS-36, and CR-28. Also enclosed is a 3.5-inch WordPerfect 5.1 disk containing the text of the Joint Motion. Copies of the enclosed document are being served upon Applicants' counsel, parties on the restricted service list, and parties of record.



Sincerely,

A. Stephen Hut, Jr.

A. Stephen Hut, Jr.

Attorney for Consolidated
Rail Corporation

Enclosures

NITL-13
SPI-14
WSC-14
DOW-15
IP-13
KENN-14
KCS-36
CR-28

EXPEDITED CONSIDERATION REQUESTED

**BEFORE THE
SURFACE TRANSPORTATION BOARD**



Finance Docket No. 32760

**UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY
AND MISSOURI PACIFIC RAILROAD COMPANY**

-- CONTROL AND MERGER --

**SOUTHERN PACIFIC RAIL CORPORATION, SOUTHERN PACIFIC
TRANSPORTATION COMPANY, ST. LOUIS SOUTHWESTERN RAILWAY
COMPANY, SPCSL CORP. AND THE DENVER AND
RIO GRANDE WESTERN RAILROAD COMPANY**

**JOINT MOTION OF THE NATIONAL INDUSTRIAL TRANSPORTATION LEAGUE,
THE SOCIETY OF THE PLASTICS INDUSTRY, INC., THE WESTERN SHIPPERS'
COALITION, DOW CHEMICAL COMPANY, INTERNATIONAL PAPER COMPANY,
KENNECOTT ENERGY COMPANY, THE KANSAS CITY SOUTHERN RAILWAY CO.,
AND CONSOLIDATED RAIL CORPORATION
FOR CLARIFICATION OF DECISION NO. 6**

ENTERED	
Office of the Secretary	
APR 11 1996	
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In order to avoid a geometric proliferation of filings in this already gargantuan record, the undersigned parties respectfully request the Surface Transportation Board ("the Board") to clarify Decision No. 6, served on October 19, 1995. Decision No. 6 sets forth the order and schedule of procedures governing the filing of evidence and pleadings in this proceeding.^{1/}

In particular, in comments filed on March 29, 1996, some non-Applicant parties purported to reserve the right to file replies to the comments and evidence submitted by other parties on March 29, and other commenters have indicated orally that they expect to file such replies. The undersigned parties ask the Board to clarify that non-Applicant parties do not have the right to file comments or evidence on April 29, 1996, in response to comments or requested conditions that were submitted on March 29, 1996.

In Decision No. 6, the Board stated its intention to require that all comments, whether in support of the Application or in opposition to the Application, be filed on March 29. A review of relevant language in that decision clearly confirms this intention: "All interested parties . . . may file written comments . . . 120 days . . . after the filing of the primary application [March 29]." Decision No. 6 at 7 (emphasis added). The Board made clear that "[w]e have adjusted applicants'

^{1/} For ease of reference, this Motion shall refer to both the Interstate Commerce Commission and the Surface Transportation Board as "the Board."

proposed procedural schedule to give more time for the filing of comments." Id. In this language, the Board made no distinction between the deadlines for those filing comments in support of the Application and those filing comments in opposition. Plainly, all parties desiring to comment on the Application were required to do so by the March 29 deadline.

The language quoted from Decision No. 6 -- and the clarification sought in this motion -- is also clearly consistent with the Board's statement in that Decision that "[w]e believe that parties filing inconsistent and/or responsive applications have a right to file rebuttal evidence, while parties simply commenting, protesting, or requesting conditions do not" (citing its similar ruling in the BN/Santa Fe proceeding). Id. This procedure is based on the Board's finding that allowing non-Applicant parties to file rebuttal served no necessary purpose and would deprive Applicants of their right to close the evidentiary record in their case. Id. at 8.

Thus, although the Procedural Schedule attached to Decision No. 6 refers to "[r]esponse to comments, protests, requested conditions and other opposition" in addition to "[r]ebuttal in support of primary application and related applications," id. at 15, the text of Decision No. 6 makes abundantly clear that the Board did not contemplate filings by non-Applicant parties on April 29. To the extent that non-Applicant parties desire to respond to arguments made in any of

the March '29 filings, they will have ample opportunity to do so in their briefs due on June 3. Id. at 15.^{2/}

A contrary interpretation of the procedural schedule would profoundly undermine the considerations of efficiency and fairness that underlie Decision No. 6. Id. at 5. Allowing each commenter to make an additional filing -- or a first substantive filing -- in "response" to those comments that took a different view of the proposed merger would add unnecessary paper to the already voluminous record and hamper the ability of the Board (and the parties) to review the entire record thoroughly.^{3/} It would also simply serve as an encouragement to all parties in future proceedings to do the same. Had the undersigned parties thought themselves free to wait until April 29 to file, many or all of them would surely have done so -- making good use of the extra time, and taking considerable advantage of seeing everyone

^{2/} The United States Department of Transportation (DOT) appears clearly to embrace this concept. In its March 29 filing, DOT did not take a position on the proposed transaction but indicated that it would review the record and file a brief on June 3 that would express its view of the transaction based upon the evidence in the record. Preliminary Comments of the United States Department of Transportation, Mar. 29, 1996, at 3-4. This same procedure -- and only this procedure -- should be followed by other non-Applicant parties who wish to address comments filed on March 29.

^{3/} If the Board were to permit responses by non-Applicant parties on April 29, then responses could be filed even by those numerous parties who sought conditions on March 29 but whose conditions were just slightly different from those sought by other parties filing on that same date. Indeed, if responses by non-Applicant parties were permitted on April 29, then responses could be filed by one party in support of the comments and conditions sought by another party on March 29. In effect the Board would be permitting two rounds of evidentiary filings by parties submitting comments on the Application.

else's filings first. Indeed, to the extent that this practice proliferated, no party would make more than a pro forma filing on the original date, and the Board's schedule would become a mockery.

Moreover, permitting non-Applicant parties to respond to comments would sanction the most atrocious kind of sandbagging. CSX Corporation ("CSX"), for example, refrained from filing any substantive comments on March 29. CSX stated that, based on "general understandings" with the Applicants with respect to matters affecting CSX, it was expressing "strong support" for the merger. Written Comments of CSX Corporation, Mar. 29, 1996, at 1 (CSX-2). But CSX went on to state that it intended to "analyze" any divestiture proposals submitted on March 29, 1996 -- to which it is "opposed" for unspecified reasons -- and then make a filing on April 29, 1996. Id. at 2. As a matter of fairness, were the Board to permit CSX (or any other party) to raise arguments or present evidence in its "response" that was not presented before -- which CSX would be doing by definition since it has made no prior substantive filing -- the Board would be compelled, as a matter of due process, to give parties whose filings were the subjects of such replies or responses leave to answer these additional arguments. The record would grow out of control.

Thus, the undersigned parties ask the Board to clarify that permissible filings on April 29 are limited to the following: (1) UP's and SP's responses to comments and rebuttal

in support of their Primary Application; (2) BNSF's rebuttal and response limited to its related applications (but not the Primary Application);^{4/} and (3) any party's comments or evidence regarding responsive applications filed on March 29. In accordance with these limitations, a party should not be permitted to participate in depositions or serve discovery except to the extent necessary to develop evidence for one of the above filings.

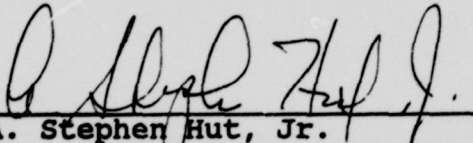
The undersigned parties request that the Board consider this motion on an expedited basis so that parties will know in advance what filings will be accepted on April 29 and so that

^{4/} Like the other parties to this motion, BNSF is simply a commenter with respect to the primary application. Because UP and SP rely on the trackage rights they propose to grant to BNSF to meet their burden of showing that the proposed merger would not adversely affect competition, any discussion in commenters' March 29 filings about BNSF's willingness and ability to utilize those trackage rights constitutes a response to the primary application. Thus, any rebuttal or response to such comments must come from UP and SP.

While the undersigned parties take no position on the Allied Rail Unions' motion for imposition of New York Dock conditions on the UP/SP-BNSF Settlement Agreement, we oppose its alternative motion to designate the Burlington Northern Railroad and The Atchison Topeka and Santa Fe Railway as co-applicants. See Motion of the Allied Rail Unions for Order Designating the Burlington Northern Railroad and The Atchison Topeka and Santa Fe Railway as Co-Applicants or Alternatively for Imposition of New York Dock Conditions on UP/SP--BNSF Settlement Agreement, Apr. 5, 1996 (ARU-8). This request comes far too late in the day for BNSF to comply with the rigorous rules (or seek waivers therefrom) applied to applicants -- including rules requiring the submission of far more evidence than BNSF has thus far been willing to submit. To allow BNSF the advantage of applicant status for purposes of permitting a further filing, without imposing the concomitant burdens of such status, is plainly unfair. Should the Board choose to confer applicant status, the undersigned urge that the Board make clear that such status is conditioned only for purposes of labor protection conditions.

parties can avoid the need for subsequent applications to the Board for leave to file additional pleadings, or to strike unauthorized pleadings. Undersigned counsel is authorized by counsel listed below to sign for all signatories to this motion.

Respectfully submitted,



A. Stephen Hut, Jr.
WILMER, CUTLER & PICKERING
2445 M Street, N.W.
Washington, D.C. 20037

**Counsel for Consolidated Rail
Corporation**

Nicholas J. DiMichael
Donelan, Cleary, Wood & Maser, P.C.
1100 New York Avenue, N.W.
Suite 750
Washington, D.C. 20005-3934

**Counsel for National Industrial
Transportation League, Dow Chemical
Company, and Kennecott Energy Company**

Martin W. Bercovici
Keller & Heckman
1001 G Street, N.W.
Suite 500W
Washington, D.C. 20001

**Counsel for Society of Plastics
Industries**

Michael F. McBride
LeBoeuf, Lamb, Greene & MacRae LLP
1875 Connecticut Ave., N.W.
Washington, D.C. 20009

**Counsel for the Western Shippers'
Coalition**

Andrew T. Goodson
Galland, Kharasch, Morse & Garfinkle
1054 - 31st Street, N.W.
Washington, D.C. 20007-4492

Counsel for International Paper Company

William A. Mullins
Troutman Sanders, LLP
601 Pennsylvania Avenue, N.W.
Suite 640 - North Building
Washington, D.C. 20004-2609

**Counsel for Kansas City Southern Railway
Co.**

April 10, 1996

CERTIFICATE OF SERVICE

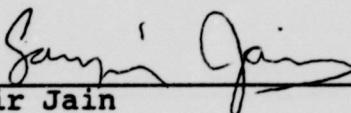
I certify that on this 10th day of April, 1996, a copy of the foregoing Joint Motion for Clarification of Decision No. 6 was served by hand to the following parties:

Erika Z. Jones
Mayer, Brown and Platt
2000 Pennsylvania Avenue, N.W.
Suite 6500
Washington, D.C. 20006

Arvid E. Roach II
S. William Livingston, Jr.
Michael L. Rosenthal
Covington & Burling
1201 Pennsylvania Avenue, N.W.
P.O. Box 7566
Washington, D.C. 20044

Paul A. Cunningham
Richard B. Herzog
James M. Guinivan
Harkins Cunningham
1300 Nineteenth Street, N.W.
Washington, D.C. 20036

served by facsimile to all parties on the Restricted Service List, and by first class mail, postage pre-paid, to all Parties of Record.



Samir Jain

STB

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86534

86534 Supports

HOUSE OF REPRESENTATIVES
STATE OF UTAH

REP. GRANT D. PROTZMAN

Assistant Minority Whip
7th DISTRICT
WEBER COUNTY
575 EAST 3073 NORTH
NORTH OGDEN, UTAH 84404
RES 782-6616 / BUS 626-6886



Item No. _____

Page Count 2 / 1

April 7 1996 AND CAPITAL FACILITIES

March 27, 1996

Vernon A. Williams, Secretary
Surface Transportation Board
Room 1324
Twelfth Street & Constitution Avenue NW
Washington, DC 20423

Re: UP/SP pending merger

Dear Secretary Williams:

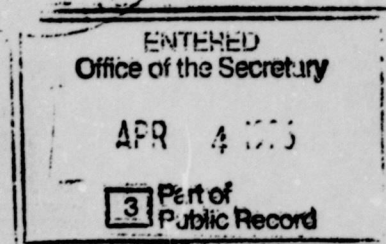
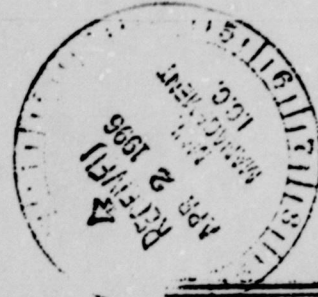
Thank you for this opportunity to comment on the above merger. As you know this process has taken years and originally there were many objections to the proposal. Here in Utah those objections were voiced most strongly by Utah shippers fearful of being left with only one class I railroad. There were fears of an inability to negotiate favorable pricing which could so negatively impact our coal export industry and as a result our state's economy.

I feel that there has been a genuine effort to address these vital concerns and that the agreements which emerged subsequent to long negotiations should satisfy most of those involved. As a result of these understandings I now strongly support the proposed merger.

It is important to protect jobs and true competition but it is also vital to acknowledge that many of the changes we are seeing in the railroad industry are necessary to keep it viable in the long run. I believe this merger offers the potential for improvement in Utah's railroad service picture and even offers a potential for enhancement of the mass transit options in our metropolitan area.

Sincerely,

Grant D. Protzman



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Apr #91

62463



Integrated

(Grain & Milling)

315 North 'H' Street
Fresno, CA 93701
(209) 443-6502

Verified Statement of Doug Dickson

This Verified Shipper Statement is to show support for the agreement that was reached between the BNSF and the UP/SP.

I am the general manager of Integrated Grain & Milling at 315 N. H st, Fresno California 93701. I have been employed in the grain and feed industry in California for the past 18 years. Integrated Grain & Milling is responsible for manufacturing feed ingredients and commodity trading in the San Joaquin Valley.

I.G.M. is headquartered in Fresno, CA, with grain milling facilities in Fresno and Hanford, CA. Our Fresno facility is served by the SPRR, and our Hanford facility is served by the BNSF. Annually we receive approximately 1300 rail cars. Our grain and grain products originate primarily in the Midwestern states of IA, NE, and KS. The major commodities are corn and soybean meal.

We are in support of the proposed merger and have supplied verified statements on behalf of the UP railroad. We do feel however, that to maintain adequate competition here in California the Surface Transportation Board should impose the agreement reached by the BNSF and the UP/SP as a condition of the merger. There have been cost advantages associated with the central corridor into the central valley of CA vs routing through southern California over Barstow. Up to this point there has been competition in the central corridor between the UP and SP. Our concern is that by eliminating the competition in the central corridor, the cost advantages will not be passed on to the consumer of rail transportation here in central California.

It is my understanding that an Agreement had been reached between the BNSF and the UP/SP to allow trackage rights to the BNSF over the central corridor. I would like to reemphasize as a unit train grain shipper, with a long association with all three of the railroads involved, that competition must be maintained in the central corridor. " I, J. Douglas Dickson, declare under penalty of perjury that the foregoing is true and correct. Executed this 21st day of March, 1996."

Sincerely,

J. Douglas Dickson
Integrated Grain & Milling



Honorable Vernon A. Williams
Secretary
Surface Transportation Board
12th St & Constitution Ave NW
Washington DC 20423

Referencing:

Finance Docket No. 32760, Union Pacific Corporation, et.
al--Control and Merger--Southern Pacific Rail Corporation, et. al

ADVISE OF ALL
PROCEEDINGS

ENTERED	
Office of the Secretary	
APR 3 1996	
5	Part of Public Record

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Item No. _____
Page Count 3
Apr #24

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BAKER & DANIELS
EST. 1863

111 E. WAYNE STREET, SUITE 800 • FORT WAYNE, INDIANA 46802 • (219) 424-8000 • FAX (219) 460-1700

MARTIN A. WEISSERT
DD (219) 460-1633

INDIANAPOLIS
FORT WAYNE
SOUTH BEND
ELKHART
WASHINGTON, D.C.

March 27, 1996

Office of the Secretary
Case Control Branch
ATTN: Finance Docket No. 32760
Surface Transportation Board
1201 Constitution Avenue, NW
Washington, DC 20423



Re: Finance Docket No. 32760
Union Pacific Corporation, et al. - Control and Merger
- Southern Pacific Rail Corporation, et al.

Dear Sir:

I am enclosing the original and 20 copies of the Withdrawal as Party of Record [GCRP-2] of Golden Cat Division of Ralston Purina Company ("GCRP").

Copies are being served on all Parties of Record.

Sincerely,

BAKER & DANIELS

Martin A. Weissert

Martin A. Weissert

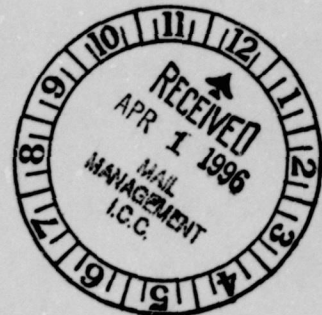
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Enclosure

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Office of the Secretary	
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5	Part of Public Record

ORIGINAL

GCRP-2

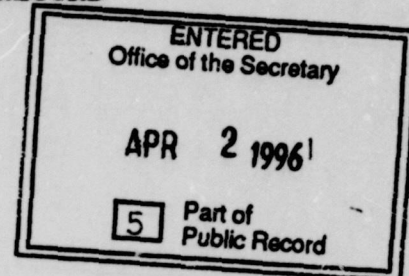
BEFORE THE
SURFACE TRANSPORTATION BOARD



Finance Docket No. 32760

UNION PACIFIC CORPORATION, ET AL.
-CONTROL AND MERGER-
SOUTHERN PACIFIC RAIL CORPORATION, ET AL.

WITHDRAWAL AS PARTY OF RECORD



Date: March 27, 1996

Martin A. Weissert
BAKER & DANIELS
111 E. Wayne Street
Suite 800
Fort Wayne, IN 46802
(219) 460-1633

ATTORNEYS FOR GOLDEN CAT
DIVISION OF RALSTON PURINA
COMPANY

The undersigned counsel has been instructed by Golden Cat Division of Ralston Purina Company ("GCRP") to advise the Board that GCRP withdraws as a Party of Record in this proceeding and no longer intends to file a Request for Conditions as previously indicated.

This action by GCRP is without prejudice to its standing in Docket No. 41550, Golden Cat Division of Ralston Purina Company v. St. Louis Southwestern Railway Company, which remains pending before the Board.

Respectfully submitted,

GOLDEN CAT DIVISION OF
RALSTON PURINA COMPANY

By: Martin A. Weissert
Martin A. Weissert
BAKER & DANIELS
111 E. Wayne Street, #800
Fort Wayne, IN 46802
(219) 460-1633

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of March, 1996, I served a copy of the foregoing document upon each Party of Record in this proceeding, and on each counsel of record in Docket No. 41550, by mailing the same to them by first class mail, postage prepaid.

Martin A. Weissert
Martin A. Weissert

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Item No. _____

Page Count 3

April 20

62395

DUNELAN, CLEARY, WOOD & MASER, P.C.

ATTORNEYS AND COUNSELORS AT LAW

SUITE 750

1100 NEW YORK AVENUE, N.W.

WASHINGTON, D.C. 20005-3934

OFFICE: (202) 371-9500

TELECOPIER: (202) 371-0900

April 1, 1996

Via Hand Delivery

Honorable Vernon A. Williams, Secretary
Surface Transportation Board
Department of Transportation
Room 1324
12th Street & Constitution Avenue, NW
Washington, DC 20423



Re: Finance Docket No. 32760, *Union Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific Railroad Company—Control and Merger—Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp. and The Denver and Rio Grande Western Railroad Company*

Dear Secretary Williams:

Enclosed for filing in the above-captioned case are an original and twenty (20) copies of the NOTICE OF WITHDRAWAL OF COUNSEL FOR INSTITUTE OF SCRAP RECYCLING INDUSTRIES, INC., designated ISRI-6. A 3.5-inch diskette containing this pleading in Word Perfect 5.1 is also enclosed. Additionally, an extra copy of this pleading is enclosed for the purpose of date stamping and returning to our office.

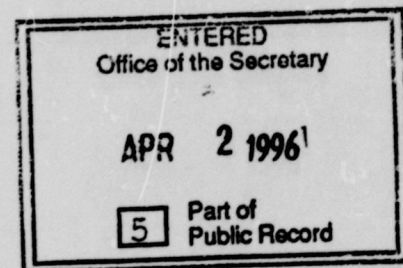
Respectfully submitted,

A handwritten signature in cursive script, appearing to read "John K. Maser III".

John K. Maser III

Enclosures

3310-060



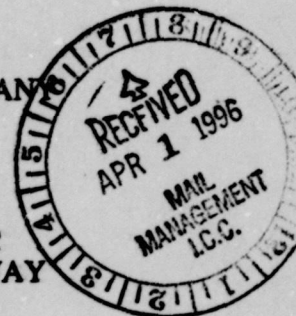
**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 32760

**UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY
AND MISSOURI PACIFIC RAILROAD COMPANY**

—Control and Merger—

**SOUTHERN PACIFIC RAIL CORPORATION, SOUTHERN PACIFIC
TRANSPORTATION COMPANY, ST. LOUIS SOUTHWESTERN RAILWAY
COMPANY, SPCSL CORP. AND THE DENVER AND
RIO GRANDE WESTERN RAILROAD COMPANY**



**NOTICE OF WITHDRAWAL OF COUNSEL
FOR INSTITUTE OF SCRAP RECYCLING INDUSTRIES, INC.**

Donelan, Cleary, Wood & Maser, P.C. hereby withdraws as counsel for the Institute of Scrap Recycling Industries, Inc. ("ISRI") in the above-referenced proceeding. ISRI will continue to participate in this proceeding, but through its own representatives: Dr. Herschel Cutler, Executive Director of ISRI, and Mr. Michael Mattia, Director, Risk Management, of ISRI. Mr. Mattia is already listed as a Party of Record on the service list in this proceeding and all orders, notices, and other pleadings in this proceeding should be directed to him as indicated below:

**Michael Mattia
Director—Risk Management
Institute of Scrap Recycling Industries, Inc.
1325 G Street, N.W.
Washington, D.C. 20005**

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "John K. Maser III".

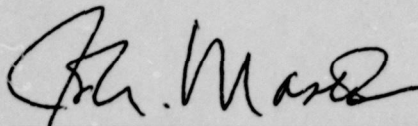
**John K. Maser III
Donelan, Cleary, Wood & Maser, P.C.
1100 New York Avenue, N.W.
Suite 750
Washington, D.C. 20005-3934
(202) 371-9500**

April 1, 1996

ENTERED	
Office of the Secretary	
APR 2 1996 ¹	
5	Part of Public Record

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of April, 1996, copies of the foregoing NOTICE OF WITHDRAWAL OF COUNSEL FOR INSTITUTE OF SCRAP RECYCLING INDUSTRIES, INC. was served upon Administrative Law Judge Jerome Nelson, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, Arvid E. Roach II, Esquire, Covington & Burling, 1201 Pennsylvania Avenue, N.W., P.O. Box 7566, Washington, D.C. 20044, and Paul A. Cunningham, Esquire, Harkins Cunningham, 1300 19th Street, N.W., Washington, D.C. 20036, by hand delivery or telecopy, and upon other known parties of record by first-class mail, postage prepaid, in accordance with the rules of the Surface Transportation Board.



John K. Maser III

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Item No. _____

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Apr # 17



CHEMICAL MANUFACTURERS ASSOCIATION

March 27, 1996



Office of the Secretary
Case Control Branch
Attn: Finance Docket No. 32760
Surface Transportation Board
1201 Constitution Avenue, N.W.
Washington, DC 20432

RE: Finance Docket No. 32760, Union Pacific Corp., et al. -Control and Merger -- Southern Pacific Rail Corp., at al.

Enclosed are the original and five copies of the Certificate of Service relating to service on the additional Parties of Record identified in the Surface Transportation Board's Decision No. 26 in this docket.

Sincerely,

Thomas E. Schick
Assistant General Counsel

enclosures

ENTERED	
Office of the Secretary	
APR 2 1996	
5	Part of Public Record

CERTIFICATE OF SERVICE



I hereby certify that on this day I have caused to be served by first-class mail, postage prepaid, on the additional Parties of Record listed in the Surface Transportation Board's Decision No. 26 in Finance Docket No. 32760, copies of CMA-3, Notice of Pleadings to Parties of Record.

Dated March 27, 1996.

Thomas E. Schick

Thomas E. Schick

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Item No. _____
Page Count 2
Apr #11

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SLOVER & LOFTUS

ATTORNEYS AT LAW

224 SEVENTEENTH STREET, N. W.

WASHINGTON, D. C. 20036

WILLIAM E. SLOVER
C. MICHAEL LOFTUS
DONALD G. AVERY
JOHN H. LE SEUR
KELVIN J. DOWD
ROBERT D. ROSENBERG
CHRISTOPHER A. MILLS
FRANK J. PERGOLIZZI
ANDREW B. KOLESAR III
PATRICIA E. KOLESAR
EDWARD J. McANDREW*

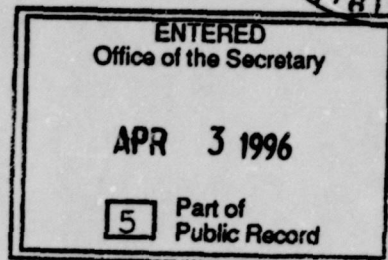
April 1, 1996

* ADMITTED IN PENNSYLVANIA ONLY



BY HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Case Control Branch
12th Street & Constitution Avenue, N.W.
Washington, D.C. 20423



Re: Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger --
Southern Pacific Rail Corporation, et al.

Dear Mr. Secretary:

In accordance with the Board's Decision No. 26 in the above-captioned proceeding, enclosed please find an original and five (5) copies of a Certificate of Service which indicates that service of a list of all numbered pleadings and discovery requests which have been filed or served by City Public Service Board of San Antonio, Texas was served upon each additional party of record to the captioned proceeding.

An extra copy of this letter and Certificate of Service is enclosed. Kindly indicate receipt and filing by time-stamping this extra copy and returning it to the bearer of this letter.

Thank you for your attention to this matter.

Sincerely,

John H. LeSeur
An Attorney for City Public Service
Board of San Antonio, Texas

Enclosure

CERTIFICATE OF SERVICE

In accordance with the Board's Decision No. 26 in Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger -- Southern Pacific Rail Corporation, et al., the undersigned attorney hereby certifies that on the 1st day of April, 1996, a list of all numbered pleadings and discovery requests which were filed or served on behalf of City Public Service Board of San Antonio, Texas was served via first class mail, postage prepaid, upon each additional party of record.

Patricia E. Kolesar
Patricia E. Kolesar

STB

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4-1-96

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Item No. _____

Page Count 2

Apr #6

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SLOVER & LOFTUS

ATTORNEYS AT LAW

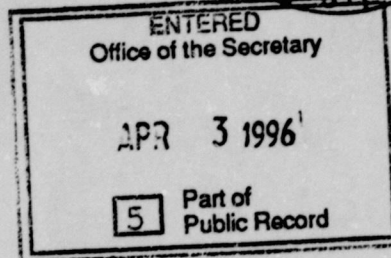
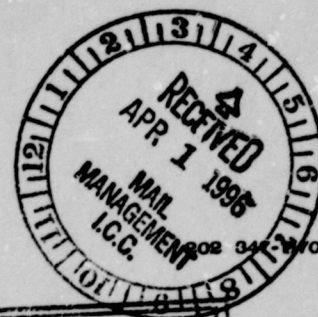
224 SEVENTEENTH STREET, N. W.

WASHINGTON, D. C. 20036

WILLIAM L. SLOVER
C. MICHAEL LOFTUS
DONALD G. AVERY
JOHN H. LE SEUR
KELVIN J. DOWD
ROBERT D. ROSENBERG
CHRISTOPHER A. MILLS
FRANK J. PERGOLIZZI
ANDREW B. KOLESAR III
PATRICIA E. KOLESAR
EDWARD J. McANDREW*

* ADMITTED IN PENNSYLVANIA ONLY

April 1, 1996



BY HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Case Control Branch
12th Street & Constitution Avenue, N.W.
Washington, D.C. 20423

Re: Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger --
Southern Pacific Rail Corporation, et al.

Dear Mr. Secretary:

In accordance with the Board's Decision No. 26 in the above-captioned proceeding, enclosed please find an original and five (5) copies of a Certificate of Service which indicates that service of a list of all numbered pleadings and discovery requests which have been filed or served by Wisconsin Power & Light Company was served upon each additional party of record to the captioned proceeding.

An extra copy of this letter and Certificate of Service is enclosed. Kindly indicate receipt and filing by time-stamping this extra copy and returning it to the bearer of this letter.

Thank you for your attention to this matter.

Sincerely,

C. Michael Loftus, Esq.

C. Michael Loftus
An Attorney for Wisconsin Power & Light Company

Enclosure

CERTIFICATE OF SERVICE

In accordance with the Board's Decision No. 26 in Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger -- Southern Pacific Rail Corporation, et al., the undersigned attorney hereby certifies that on the 1st day of April, 1996, a list of all numbered pleadings and discovery requests which were filed or served on behalf of Wisconsin Power & Light Company was served via first class mail, postage prepaid, upon each additional party of record.

Patricia E. Kolesar

Patricia E. Kolesar

STB

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32760

4-1-96

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62384

Item No. _____

Page Count 1Apr # 9

62384

SURFACE TRANSPORTATION BOARD
Washington, D.C.

Finance Docket No. 32760

UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY,
AND MISSOURI PACIFIC RAILROAD COMPANY--CONTROL AND MERGER--
SOUTHERN PACIFIC RAIL CORPORATION, SOUTHERN PACIFIC
TRANSPORTATION COMPANY, ST. LOUIS SOUTHWESTERN RAILWAY
COMPANY, SPCSL CORP., AND THE DENVER AND RIO GRANDE WESTERN
RAILROAD COMPANY

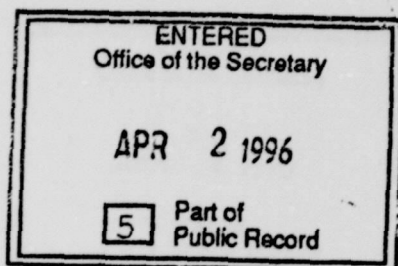
CERTIFICATE OF SERVICE

I hereby certify that this 27th day of March, 1996, I
caused a copy of the filing made to date in this proceeding
by Exxon Chemical Americas to be served, by first class
mail, postage pre-paid, on all of the added parties of
record in this proceeding, pursuant to Decision No. 17 of
the Surface Transportation Board.

Anne D. Smith

Anne D. Smith
WHITE & CASE
1747 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Counsel for Exxon Chemical
Americas



STB

FD

32760

4-1-96

J

62378

Item No. _____

Page Count 1

Apr #3

LAW OFFICES

KELLER AND HECKMA

1001 G STREET, N.W.
SUITE 500 WEST
WASHINGTON, D.C. 20001
TELEPHONE (202) 434-4100
FACSIMILE (202) 434-4646

BOULEVARD LOUIS SCHMIDT 87
B-1040 BRUSSELS
TELEPHONE 32(2) 732 52 80
FACSIMILE 32(2) 732 53 92

JOSEPH E. KELLER (1907-1994)
JEROME H. HECKMAN
WILLIAM H. BORGHESE, JR.
MALCOLM D. MACARTHUR
WAYNE V. BLACK
TERRENCE D. JONES
MARTIN W. BERCOVICI
JOHN S. ELDRED
RICHARD J. LEIGHTON
ALFRED S. REGNIER
WILLIAM L. KOVACS
DOUGLAS J. BEHR
RAYMOND A. KOWALSKI
SHIRLEY A. COFFIELD
MICHAEL F. MORRONE
JOHN S. RICHARDS
JEAN SAVIGNY
JOHN S. DUBECK
PETER L. DE LA CRUZ
HELVIN S. DROEN
LAWRENCE P. HALPRIN
RALPH A. SIMMONS
RICHARD F. HARR
C. DOUGLAS JARRETT
SHEILA A. MILLAR
GEORGE G. MISKO
STEPHAN E. BECKER
PATRICK J. HURD
MARK A. SIEVERS
GARET L. DODGE
JEAN-PHILIPPE MONTFORT
DAVID G. SARVAD
JONATHAN R. SPENCER
CATHERINE R. NIELSEN
SUSAN W. HAFEL
AMY N. RODGERS
ELLIOT BELLOS
MARK L. IYEROFF
ROSEMARIE A. KELLEY
T. PHILLIPS SECK
ARTHUR S. GARRETT III
LESLIE E. SILVERMAN
ELIZABETH N. HARRISON
ROBERT H. & LOCKWOOD
CAROL MOORS TOTH
JOAN C. SYLVAIN

MARTHA E. MARRAPESE
DONALD T. WURTH
DAVID S. BERRY
S. DEBORAH ROSEN
DAVID R. JOY
FREDERICK A. STEARNS
TONY RUSSELL EPPS
THOMAS C. BERGER
JOHN F. FOLEY
ALEXANDRE HENCKI VON ZEBINSKY
PHILIP M. ANDREWS
JENNIFER A. BOHANNON
JOHN REARDON
PATRICK W. RATKOWSKI
MARA A. MICHAELS
PAULA DEAP
JOHN W. HOPKINS, JR.

*NOT ADMITTED IN D.C.
RESIDENT BRUSSELS

SCIENTIFIC STAFF

DANIEL S. DIXLER, PH. D.
CHARLES V. BREUER, PH. D.
ROBERT A. MATHEWS, PH. D., D.A.B.T.
JOHN F. MODDERMAN, PH. D.
HOLLY HUTMIRE FOLEY
JUSTIN C. POWELL, PH. D.
JANETTE HOUK, PH. D.
LESTER BORODINSKY, PH. D.
THOMAS C. BROWN
MICHAEL T. FLOCCO, PH. D.
ANDREW P. JOVANOVIĆ, PH. D.

WRITERS DIRECT DIAL NUMBER

March 29, 1996

(202) 434-4144

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Room 2215
12th Street & Constitution Avenue, NW
Washington, DC 20423

Re: Finance Docket No. 32760, Union Pacific
Corporation, et al. -- Control and Merger --
Southern Pacific Corporation, et al.

Dear Secretary Williams:

Enclosed for filing in the above-captioned docket proceeding, please find an original and twenty (20) copies of Comments of Montell USA, Inc. (MONT-2) and Olin Corporation (OLIN-2), responsive to the primary application. Also enclosed is a 3.5" disk containing the text of the pleading in Word Perfect 5.1.

As required by the Commission, Montell USA, Inc. and Olin Corporation have established a document depository, located at the address referenced above. Persons interested in visiting the depository or obtaining copies of documents should contact Barbara E. Fitzpatrick (202-434-4107).

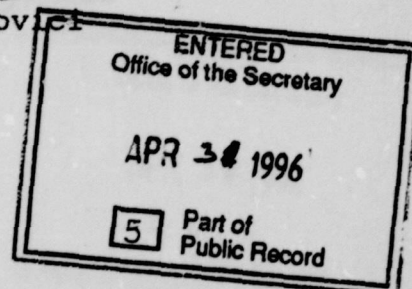
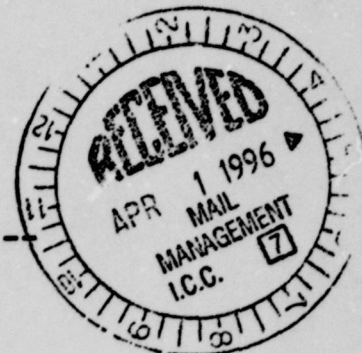
Copies of the enclosed Comments are being served contemporaneously on the parties shown below, by first-class mail, unless otherwise indicated.

Very truly yours,

Martin W. Bercovici

Enclosures

cc: Arvid E. Roach II, Esquire (By Hand)
Paul A. Cunningham, Esquire (By Hand)
Administrative Law Judge Jerome Nelson
Attorney General
Secretary of Transportation
All Parties of Record



STB

FD

32760

4-1-96

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62376

Item No. _____

Page Count 2

Apr # 1

62376

SLOVER & LOFTUS

ATTORNEYS AT LAW

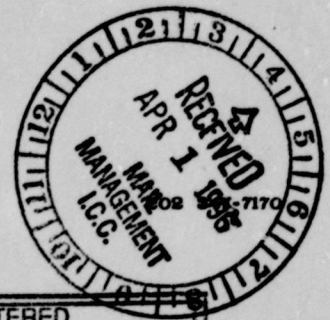
1224 SEVENTEENTH STREET, N. W.

WASHINGTON, D. C. 20036

WILLIAM L. SLOVER
C. MICHAEL LOFTUS
DONALD G. AVERY
JOHN H. LE SEUR
KELVIN J. DOWD
ROBERT D. ROSENBERG
CHRISTOPHER A. MILLS
FRANK J. PERGOLIZZI
ANDREW B. KOLESAR III
PATRICIA E. KOLESAR
EDWARD J. McANDREW*

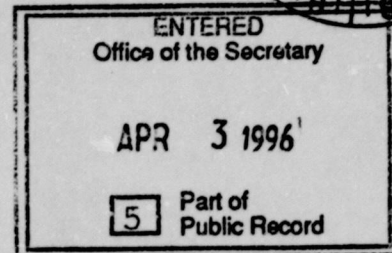
* ADMITTED IN PENNSYLVANIA ONLY

April 1, 1996



BY HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Case Control Branch
12th Street & Constitution Avenue, N.W.
Washington, D.C. 20423



Re: Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger --
Southern Pacific Rail Corporation, et al.

Dear Mr. Secretary:

In accordance with the Board's Decision No. 26 in the above-captioned proceeding, enclosed please find an original and five (5) copies of a Certificate of Service which indicates that service of a list of all numbered pleadings and discovery requests which have been filed or served by Central Power & Light Company was served upon each additional party of record to the captioned proceeding.

An extra copy of this letter and Certificate of Service is enclosed. Kindly indicate receipt and filing by time-stamping this extra copy and returning it to the bearer of this letter.

Thank you for your attention to this matter.

Sincerely,

C. Michael Loftus PER

C. Michael Loftus
An Attorney for Central Power & Light
Company

Enclosure

CERTIFICATE OF SERVICE

In accordance with the Board's Decision No. 26 in Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger -- Southern Pacific Rail Corporation, et al., the undersigned attorney hereby certifies that on the 1st day of April, 1996, a list of all numbered pleadings and discovery requests which were filed or served on behalf of Central Power & Light Company was served via first class mail, postage prepaid, upon each additional party of record.

Patricia E. Kolesar
Patricia E. Kolesar

STB

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32760

3-28-96

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62092

Item No. _____

Page Count 1

Mar # 609

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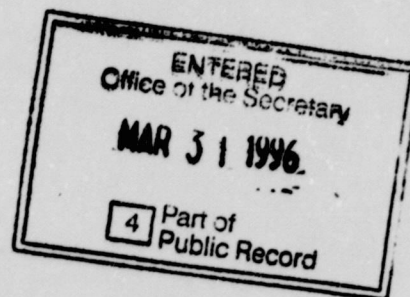
DENVER AND RIO GRANDE WESTERN
EMPLOYEES LABOR COMMITTEE
2048 J ROAD
FRUITA, COLORADO 81521

ADVISE OF ALL PROCEEDINGS

Office of the Secretary
Case Control Branch
Attn: Finance Docket No. 32760
Surface Transportation Board
1201 Constitution Avenue, N.W.
Washington, D.C. 20423



March 26, 1996



RE: Finance Docket No. 32760 -- Union Pacific Corp., et al. -- Control and Merger Southern Pacific Corp., et al.

Dear Mr. Secretary,

The Denver and Rio Grande Western Employees Labor Committee (DELC) wishes to remove our filing as Party of Record, in the pending proceedings of Finance Docket No. 32760. We hereby request to remain on the service list and be kept informed on the happenings of this matter by your office.

In our attempt to effect an employee purchase of the former Denver & Rio Grande Western Lines, we were unable to secure proper financing and to formulate an operating plan that would adhere to the procedural schedule.

We apologize for any inconvenience it has placed on the Surface Transportation Board.

Regretfully Yours,
Steve Tucker

President - D.E.L.C.

STB

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32760

3-28-96

J

62091

Item No. _____

Page Count 4

MAR #1612

ER, CUTLER & PICKERING

2445 M STREET, N.W.

WASHINGTON, D.C. 20037-1420

TELEPHONE (202) 663-6000

FACSIMILE (202) 663-6363

A. STEPHEN HUT, JR.

DIRECT LINE (202)

663-6235

62091 3
4 CARLTON GARDENS
LONDON SW1Y 5AA
TELEPHONE 011 (4471) 839-4466
FACSIMILE 011 (4471) 839-3537

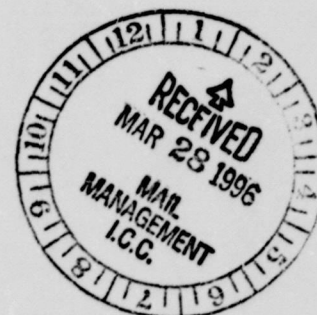
RUE DE LA LOI 15 WETSTRAAT
B-1040 BRUSSELS
TELEPHONE 011 (322) 231-0903
FACSIMILE 011 (322) 230-4322

FRIEDRICHSTRAßE 95
BRIEFKASTEN 29
D-10117 BERLIN
TELEPHONE 011 (4930) 2643-3601
FACSIMILE 011 (4930) 2643-3630

March 28, 1996

BY HAND DELIVER

Mr. Vernon A. Williams
Surface Transportation Board
Case Control Branch
Room 1324
1201 Constitution Avenue, N.W.
Washington, D.C. 20423



Re: Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger -- Southern Pacific Corporation, et al.

Dear Secretary Williams:

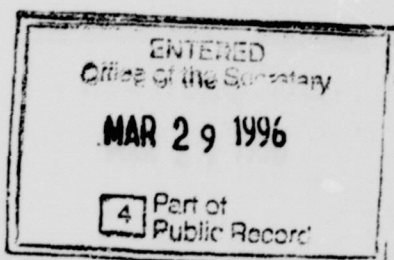
This certifies that I served the attached list of Conrail pleadings in conformity with Decision No. 26 (March 25, 1996) on the parties of record identified in Decision No. 26.

Sincerely,

A. Stephen Hut, Jr.
A. Stephen Hut, Jr.

Counsel for Consolidated
Rail Corporation

Enclosure



62091

WILMER, CUTLER & PICKERING

2445 M STREET, NW
WASHINGTON, D.C. 20037-1420

TELEPHONE (202) 663-6000
FACSIMILE (202) 663-6363

A STEPHEN HUY, JR.
DIRECT LINE (202)
663-6235

4 CARLTON GARDENS
LONDON SW1Y 5AA
TELEPHONE 011 44711 839-4466
FACSIMILE 011 44711 839-3537

RUE DE LA LOI 15 WETSTRAAT
B-1040 BRUSSELS
TELEPHONE 011 3221 231-0903
FACSIMILE 011 3221 230-4322

FRIEDRICHSTRASSE 95
BRIEFKASTEN 29
D-10117 BERLIN
TELEPHONE 011 49301 2643-3601
FACSIMILE 011 49301 2643-3630

March 12, 1996

TO: All Parties of Record Added by Decision 17

Re: Finance Docket No. 32760, Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company -- Control and Merger -- Southern Pacific Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp. and The Denver and Rio Grande Railroad Company

Pursuant to Decision No. 16 of the Surface Transportation Board served on February 22, 1995, you are hereby advised that Consolidated Rail Corporation has filed the following 20 pleadings in the above-captioned docket:

1. Notice of Appearance of Consolidated Rail Corporation, dated September 7, 1995 ("CR-1");
2. Comments of Consolidated Rail Corporation in Response to Decision No. 1 (Sept. 1, 1995), dated September 18, 1995 ("CR-2");
3. Letter from Bruce B. Wilson, to Honorable Vernon A. Williams, dated October 13, 1995, further commenting on the procedural schedule ("CR-3");
4. Consolidated Rail Corporation's First Requests to Applicants for the Production of Documents and First Set of Interrogatories to Applicants, dated December 22, 1995 ("CR-4");
5. Consolidated Rail Corporation's First Requests to BNSF Corporation for the Production of Documents, dated December 28, 1995 ("CR-5");
6. Notice of Consolidated Rail Corporation of Intent to Participate, dated January 16, 1996 ("CR-6");

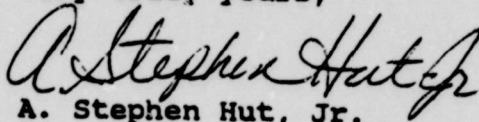
7. Consolidated Rail Corporation's First Set of Interrogatories and Second Set of Requests for the Production of Documents to BNSF Corporation, dated February 2, 1996 ("CR-7");
8. Consolidated Rail Corporation's Second Set of Interrogatories and Second Requests for Production of Documents to Applicants, dated February 2, 1996 ("CR-8");
9. Consolidated Rail Corporation's Third Request for Applicants for the Production of Documents, dated February 7, 1996 ("CR-9");
10. Consolidated Rail Corporation's Third Request to BNSF Corporation for the Production of Documents, dated February 7, 1996 ("CR-10");
11. Consolidated Rail Corporation's Fourth Request to Burlington Northern Railroad Company, Atchison, Topeka and Santa Fe Railway Company, and Burlington Northern Santa Fe Corporation for the Production of Documents, dated February 16, 1996 ("CR-11");
12. Consolidated Rail Corporation's Fourth Request to Applicants for the Production of Documents, dated February 16, 1996 ("CR-12");
13. Consolidated Rail Corporation's First Request for Inspection of Applicants' Property, dated February 26, 1996 ("CR-13");
14. Consolidated Rail Corporation's First Request to Burlington Northern Railroad Company, Atchison, Topeka and Santa Fe Railway Company, and Burlington Northern Santa Fe Corporation for Inspection of Property, dated February 26, 1996 ("CR-14");
15. Certificate of Service, dated February 26, 1996 ("CR-15");
- 15A. Consolidated Rail Corporation's Objections to Applicants' First Set of Interrogatories and Requests for Production of Documents to Consolidated Rail Corporation, dated March 4, 1996 ("CR-15A");^{1/}

^{1/} This document was initially numbered CR-15 in error. It is now numbered CR-15A.

16. Consolidated Rail Corporation's Objections to Burlington Northern Railroad Company and The Atchison, Topeka and Santa Fe Railway Company's, First Set of Interrogatories and Document Production Requests to Consolidated Rail Corporation, dated March 4, 1996 ("CR-16");
17. Reserved
18. Consolidated Rail Corporation's Responses to Applicants' First Set of Interrogatories and Requests for Production of Documents, dated March 12, 1996 ("CR-18");
19. Consolidated Rail Corporation's Responses to Burlington Northern Railroad Company and the Atchison, Topeka and Santa Fe Railway Company's First Set of Interrogatories and Document Production Requests, dated March 12, 1996 ("CR-19").

Should you require a copy of any or all of the above 20 pleadings, please submit a request and allow us three business days from the date of receipt to honor it. Thank you.

Very truly yours,


A. Stephen Hut, Jr.

STB

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32760

3-28-

~~98~~ *96*

J.

62090

Item No. _____

Page Count 1

Mar #608

LAW OFFICES

GORDON P. MACDOUGALL

1025 CONNECTICUT AVE., N. W.
WASHINGTON, D. C. 20036

TELEPHONE
AREA CODE 202
223-9738

March 28, 1996

Vernon A. Williams
Secretary
Surface Transportation Board
Washington, DC 20423



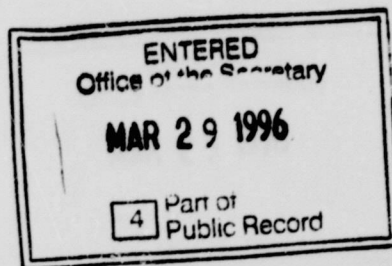
Re: F.D. No. 32760, et al.
Union Pacific-Control & Merger-Southern Pacific

Dear Mr. Williams:

This is to certify, in accordance with Decision No. 26 served March 25, 1996), that I have served a copy of all filings submitted so far in this proceeding (UTUI-1, JDF-1) on behalf of United Transportation Union, Illinois Legislative Board, and United Transportation Union, General Committee of Adjustment, on all designated parties of record by first class mail postage-prepaid.

Very truly yours,

Atty. for UTU-IL and UTU-GCA



62090

STB

FD

32760

3-27-96

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62061

Item No. _____

H Page Count 2

Mar #542

Attorneys at Law

1299 Pennsylvania Ave., N.W.

Washington, D.C. 20004-2402

(202) 783-0800

FAX (202) 383-6610

March 27, 1996

In Los Angeles

(213) 892-1800

Mark L. Josephs

(202) 383-7353

HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1201 Constitution Avenue, N.W.
Washington, D.C. 20549



Re: Finance Docket No. 32760

Dear Secretary Williams:

Pursuant to Decision Number 26, enclosed are an original and five copies of the certificate of service indicating that The Coastal Corporation has served each Party of Record designated in Decision Number 26 with copies of each filing Coastal Corporation has made to date in the above-referenced proceeding.

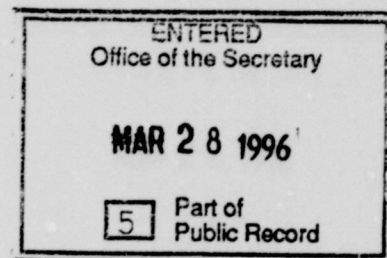
Thank you for your attention to this matter.

Sincerely,

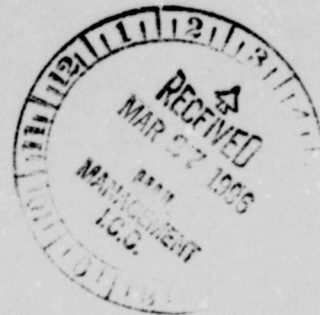
A handwritten signature in cursive script, appearing to read "Mark L. Josephs".

Mark L. Josephs

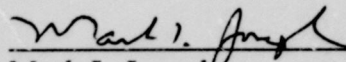
Enclosures



CERTIFICATE OF SERVICE

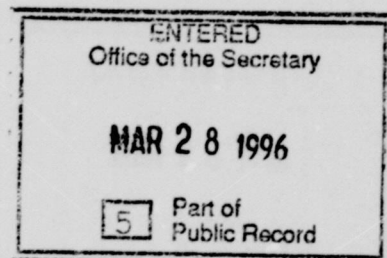


I hereby certify that, pursuant to Surface Transportation Board Decision Number 26, copies of the Notice of Appearance of the Coastal Corporation (COAC-1) and the Supplemental Notice of Appearance of the Coastal Corporation (COAC-2), previously filed with the Surface Transportation Board, were served by regular United States mail, postage prepaid, this 27th day of March, 1996 on all Parties of Record designated in Decision Number 26.



Mark L. Josephs

Dated: March 27, 1996



STB

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32760

3-20-96

J.

61902

WILMER, CUTLER & PICKERING

2445 M STREET, NW
WASHINGTON, D.C. 20037-1420TELEPHONE (202) 663-6000
FACSIMILE (202) 663-6363JOSEPH E. RILLOTT JR.
DIRECT LINE (202)
663-6069

61902

Office of the Secretary

MAR 22 1996

4 Part of Public Record

4 CARLTON GARDENS
LONDON SW1Y 5AA
TELEPHONE 011 44 71 839 4466
FACSIMILE 011 44 71 839 3537

RUE DE LA LOI 15 WETSTRAAT
B-1040 BRUSSELS
TELEPHONE 011 32 21 231 0903
FACSIMILE 011 32 21 230 4322

FRIEDRICHSTRASSE 95
BREITENBURG 29
D-10117 BERLIN
TELEPHONE 011 49 30 2643 3601
FACSIMILE 011 49 30 2643 3630

March 19, 1996

The Honorable Jerome Nelson
Administrative Law Judge
Federal Energy Regulatory Commission
Room No. 11F21
888 First Street, N.E.
Washington, D.C. 20426



Re: Finance Docket No. 32760,
Union Pacific Corp., et al. -- Control &
Merger -- Southern Pacific Corp., et al.

Dear Judge Nelson:

Consolidated Rail Corporation ("Conrail") wishes to address two items noticed for the March 20, 1996 Discovery Conference. Also enclosed is a courtesy copy of Conrail's Reply to Applicants' Appeal to the Surface Transportation Board from Your Honor's March 8, 1996 discovery rulings, as served on the Restricted Service List.

Applicants' Motion to Compel

The list of motions to compel proposed by Applicants for the March 20 Discovery Conference -- as set forth in the March 13 letter to Your Honor from Arvid E. Roach II -- includes one item relating to Conrail. Applicants' description of this dispute is inaccurate, and its requested relief contravenes Your Honor's rulings at the March 8 Discovery Conference.

Applicants' dispute -- which, contrary to Paragraph 2 of the Discovery Guidelines, they did not attempt to resolve with Conrail before noticing the matter for hearing -- involves Conrail's response to Applicants' Document Request No. 35. That Request reads as follows:

35. Produce each current haulage or trackage rights agreement in effect between Conrail and any other railroad.

Mr. Roach's March 13 letter asserts that "Conrail objected to producing documents in response to Applicants' Document Request No. 35 to Conrail based on a burden objection." This statement is inaccurate in at least two important respects.

The Honorable Jerome Nelson
March 19, 1996
Page 2

First, Conrail objected to No. 35 on the grounds of relevance as well as burden. Second, the implicit suggestion that Conrail is not producing any trackage or haulage rights agreements is simply wrong. Notwithstanding the fact that Your Honor on March 8 noted the overbreadth of Request No. 35 (and Applicants refused Your Honor's suggestion that they narrow or reformulate that request), Conrail made clear in its Responses to Applicant that it will be producing certain trackage rights agreements.

Specifically, in response to the more targeted requests propounded by the Burlington Northern and Santa Fe Railroads ("BNSF"), Conrail agreed to search for and produce trackage rights agreements for seven specifically identified lines. Moreover, Conrail is making available rate information from an additional 18 trackage agreements specifically identified in response to BNSF's requests. As Conrail made clear in its response to Applicants' requests, these agreements and related data produced in response to the BNSF requests are being made available to Applicants.

The transcript of the March 8 Discovery Conference makes clear Your Honor's view that Applicants' Request No. 35 is overbroad, and Applicants effectively conceded as much. Specifically, the issue of the overbreadth and irrelevance of Applicants' requests for Conrail's "trackage rights" documents was first raised at the March 8 hearing in the context of Applicants' Document Request No. 24, seeking all studies relating to the "terms for and effectiveness of" trackage rights. Your Honor noted the broad nature of the request and invited Applicants to narrow its focus. In attempting to defend that request -- which Your Honor ultimately limited to studies of the "effectiveness" of trackage rights -- Applicants' counsel's first response was to point out that after all it did not request copies of the agreements (Tr., at 2007):

JUDGE NELSON: Maybe Mr. Livingston's clients would have some idea of particular trackage rights.

MR. LIVINGSTON: We're not asking for copies of the agreements.

Request No. 35 of course did ask for the agreements -- all of them. At the March 8 Discovery Conference, Your Honor again noted the extreme breadth of this request and again invited Applicants to narrow the scope of the request, and Applicants once again refused to do so. Tr., at 2034-36. In the face of Applicants' position Your Honor ruled as follows:

The Honorable Jerome Nelson
March 19, 1996
Page 3

JUDGE NELSON: Once again, pressing for such a response invites a response that's I suspect not going to help you much. Give him the response that's appropriate on March 12th.

Tr., at 2036. Rather than simply stand on its proper objections to this irrelevant, overbroad, and burdensome request, Conrail is producing a representative sample of trackage agreements and trackage rate information. There is no basis for requiring it to do more as a Phase I obligation.

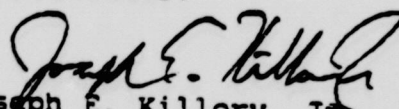
Conrail's Motion to Compel

In the March 18, 1996 letter to Your Honor from A. Stephen Hut, Jr., Conrail noticed two issues that it intended to raise at the March 20 Discovery Conference.

The first is a motion to compel BNSF to produce "train sheets" for a representative four-week period for its route between Memphis and St. Louis. That issue has not been resolved and therefore remains on the agenda for the March 20 Discovery Conference.

The second issue involved the failure of Applicants and BNSF to produce documents relating to service from the Houston terminal. That matter appears to have been resolved sufficiently at this time to remove it from the March 20 agenda.

Respectfully,


Joseph E. Killory, Jr.

cc: Restricted Service List

WILMER, CUTLER & PICKERING

2445 M Street, N.W.
 Washington, D.C. 20037-1420
 Telephone: (202) 663-6000
 Facsimile: (202) 663-6363

Date: March 19, 1996

From: Joseph E. Killory, Jr.



TO	Fax Number	Main Number
1. Carol Harris	(415) 495-5436	(415) 541-1000
2. Paul A. Conley	(402) 271-5610/5625	(402) 271-4229
3. Paul A. Cunningham	(202) 973-7610	(202) 973-7601
4. Arvid E. Roach II	(202) 778-5388	(202) 662-6000
5. William Cottrell	(312) 814-2549	(312) 814-4323
6. Mark Tobey	(512) 320-0975	(512) 463-2185
7. James F. Rill	(202) 338-5534	(202) 342-8466
8. Honorable Vernon Williams	(202) 927-5984	(202) 927-7428
9. Lindsay Bower	(415) 356-6377/6370	(415) 356-6000
10. Michael F. McBride	(202) 986-8102	(202) 986-8000

COMMENTS:

We are beginning to send a communication of ___ pages (including this cover sheet). If transmission is interrupted or of poor quality, please notify us immediately by telephone at (202) 663-6712.

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone (collect), and return the original message to us at the above address by post. Thank You.

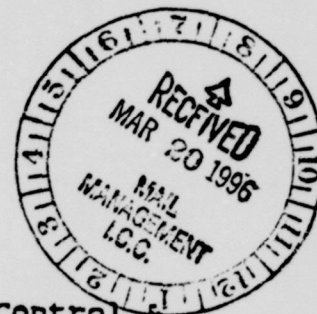
WILMER, CUTLER & PICKERING

2445 M STREET, NW
WASHINGTON, D.C. 20037-1420TELEPHONE (202) 663-6000
FACSIMILE (202) 663-6363JOSEPH E. RILLOREY JR.
DIRECT LINE (202)
663-6069

Office of the Secretary	
MAR 22 1996	
4	Part of Public Record
4 CARLTON GARDENS LONDON SW1Y 5AA TELEPHONE 011 4471839-4466 FACSIMILE 011 44717839-3537	
RUE DE LA LOI 15 WETSTRAAT B-1040 BRUSSELS TELEPHONE 011 3221 2340603 FACSIMILE 011 3221 230-4322	
FRIEDRICHSTRASSE 95 D-10117 BERLIN TELEPHONE 011 49301 2643 3601 FACSIMILE 011 49301 2643 3630	

March 19, 1996

The Honorable Jerome Nelson
Administrative Law Judge
Federal Energy Regulatory Commission
Room No. 11F21
888 First Street, N.E.
Washington, D.C. 20426



Re: Finance Docket No. 32760,
Union Pacific Corp., et al. -- Control &
Merger -- Southern Pacific Corp., et al.

Dear Judge Nelson:

Consolidated Rail Corporation ("Conrail") wishes to address two items noticed for the March 20, 1996 Discovery Conference. Also enclosed is a courtesy copy of Conrail's Reply to Applicants' Appeal to the Surface Transportation Board from Your Honor's March 8, 1996 discovery rulings, as served on the Restricted Service List.

Applicants' Motion to Compel

The list of motions to compel proposed by Applicants for the March 20 Discovery Conference -- as set forth in the March 13 letter to Your Honor from Arvid E. Roach II -- includes one item relating to Conrail. Applicants' description of this dispute is inaccurate, and its requested relief contravenes Your Honor's rulings at the March 8 Discovery Conference.

Applicants' dispute -- which, contrary to Paragraph 2 of the Discovery Guidelines, they did not attempt to resolve with Conrail before noticing the matter for hearing -- involves Conrail's response to Applicants' Document Request No. 35. That Request reads as follows:

35. Produce each current haulage or trackage rights agreement in effect between Conrail and any other railroad.

Mr. Roach's March 13 letter asserts that "Conrail objected to producing documents in response to Applicants' Document Request No. 35 to Conrail based on a burden objection." This statement is inaccurate in at least two important respects.

STB

FD

32760

3-20-96

J

62089

Item No. _____

Page Count 2

MAR #569

PANY, INC.



P.O. Box 100
Claiborne Mill
Perdue Hill, Alabama 36470
Telephone: (334) 575-2000

A2307  ISO 9002

March 25, 1996

ADVISE OF ALL

PROCEEDINGS

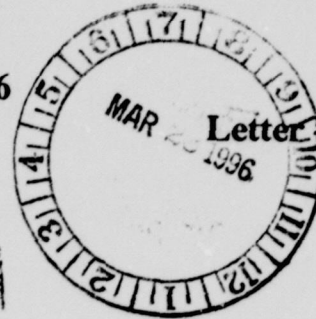
Honorable Vernon A. Williams

Secretary

Surface Transportation Board

12th Street and Constitution Ave. N.W.

Washington, DC 20423

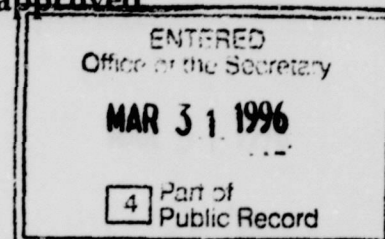


Re: Finance Docket No. 32760 Union Pacific Corporation, et al-
Control and Merger - Southern Pacific Rail Corporation et al

Dear Mr. Williams:

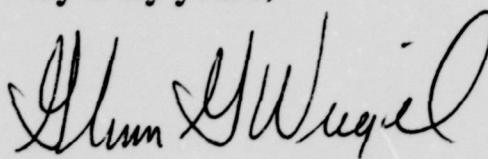
The purpose of this letter is to express my support for the BN/Santa Fe Agreement with UP/SP. My name is Glenn G. Wiegel and I am Manager, Traffic/Sales Distribution for the Alabama River Companies which include ARP, APP and ARN, all located on the same complex at Claiborne, Alabama. We use 4.5 million gross short tons of wood fibre annually. The fibre is used to produce in excess of 800,000 metric tons of pulp and 235,000 metric tons of newsprint annually.

Our site is served by BN/SF which plays a vital role in wood deliveries and pulp/newsprint distribution. I believe that BN/SF provides the competition and services needed by shippers who would not have access to a second rail carrier if the UP/SP merger is approved.



In conclusion I believe the proposed agreement would benefit my company as well as other companies using rail service in the areas concerned by the agreement. Your support of this agreement would be appreciated.

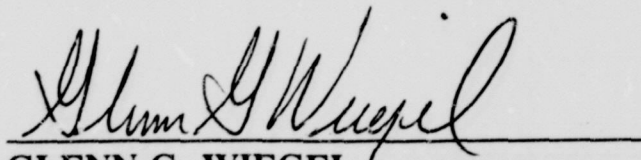
Very truly yours,



GLENN G. WIEGEL
MANAGER-TRAFFIC/DISTRIBUTION

GGW:jp

"I declare under penalty of perjury that the foregoing is true and correct.
Executed this 25th day of March 1996."


GLENN G. WIEGEL

STB

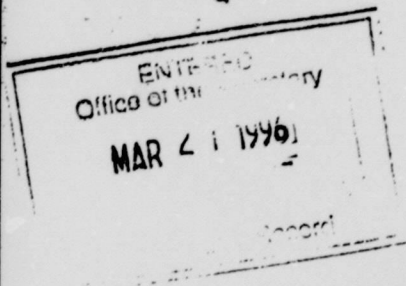
FD

32760

3-20-96

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BEFORE THE
SURFACE TRANSPORTATION BOARD



Finance Docket No. 32760

UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY
AND MISSOURI PACIFIC RAILROAD COMPANY

-- CONTROL AND MERGER --

SOUTHERN PACIFIC RAIL CORPORATION, SOUTHERN PACIFIC
TRANSPORTATION COMPANY, ST. LOUIS SOUTHWESTERN RAILWAY
COMPANY, SPCSL CORP. AND THE DENVER AND
RIO GRANDE WESTERN RAILROAD COMPANY

CERTIFICATE OF SERVICE

I hereby certify that, as required by Decision No. 17 in Finance Docket No. 32760, copies of a letter from Erika Z. Jones listing all numbered pleadings filed by the Burlington Northern Railroad Company and/or The Atchison, Topeka and Santa Fe Railway Company were served via First Class Mail on all parties of record that were added to the service list pursuant to Decision No. 17.

Kelley E. O'Brien
Kelley E. O'Brien
Mayer, Brown & Platt
2000 Pennsylvania Avenue, N.W.
Suite 6500
Washington, D.C. 20006
(202) 778-0607

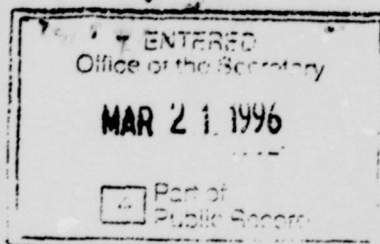
date: March 18, 1996

STB FD 61887

3-20-96

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61887



United States of America
Before the
SURFACE TRANSPORTATION BOARD



Finance Docket No. 32760

UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY
AND MISSOURI PACIFIC RAILROAD COMPANY
-----CONTROL AND MERGER-----
SOUTHERN PACIFIC RAIL CORPORATION
SOUTHERN PACIFIC TRANSPORTATION COMPANY, ST. LOUIS
SOUTHWESTERN RAILWAY COMPANY, SPCSL CRP. AND THE
DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY

NOTICE OF PRIOR PLEADINGS

Pursuant to Decision No. 16 herein, served February 16, 1996,
the City of Susanville, a municipal law corporation and general law
city of the State of California, hereby provides to the parties of
record the following list of pleadings that have been filed by the
City of Susanville to date in this proceeding:

NOTICE OF INTENT TO PARTICIPATE.

All parties of record wishing to obtain copies may contact:
Kathleen R. Lazard, Esq., at the address shown below.

Respectfully submitted,

CITY OF SUSANVILLE
KATHLEEN R. LAZARD, City Attorney

Kathleen R. Lazard
700 Court Street, P.O. Box 730
Susanville, CA 96130
(916) 257-7704
Attorney for the City of Susanville

March 13, 1996.

CERTIFICATE OF SERVICE

I hereby certify that I have served the forgoing notice on all parties of record on the service list in this proceeding, and an original plus five copies on the Secretary of the Surface Transportation Board by first class mail, postage prepaid this _____ day of March, 1996.

MARY FAHLEN,
City Clerk

STB

FD

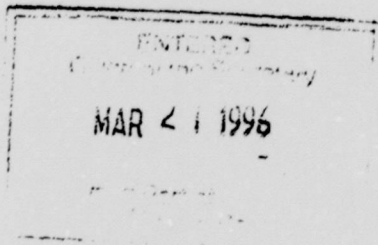
32760

3-20-96

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61883

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BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 32760

UNION PACIFIC CORPORATION ET AL -- CONTROL AND MERGER --
SOUTHERN PACIFIC RAIL CORPORATION ET AL

CERTIFICATE OF SERVICE

BY THE MOUNTAIN/PLAINS COMMUNITIES AND
SHIPPERS COALITION

IN THIS FINANCE DOCKET PROCEEDING

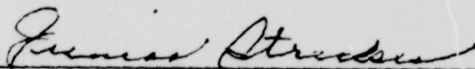
MOUNTAIN/PLAINS COMMUNITIES AND
SHIPPERS COALITION
123 NORTH MAIN
HOISINGTON, KANSAS 67544

BY: JUNIOR STRECKER
CHAIRMAN

DATED: MARCH 12, 1996

CERTIFICATE OF SERVICE

I hereby certify that on March 12, 1996, I caused to be served, by first class mail, postage prepaid, copies of the request for Party of Record in Finance Docket No. 32760 on all known parties of record in this proceedings, As required by Surface Transportation Board Decision Number 17.



Junior Strecker

FOR: Mountain/Plains Communities
Shippers Coalition
123 North Main
Hoisington, KS 67544

Jane T. Feldman
Assistant, Attorney General
State of Colorado
1525 Sherman Street
5th Floor
Denver, CO 80203

D.E. Thompson
Brotherhood of Loco. Engrs.
414 Missouri Building
Scott City, MO 63780

George T. Williamson
Managing Director
Port of Houston Authority
P.O. Box 2562
111 E. Loop N.
Houston, TX 77029

John D. Ballas
Agency Engineer
Industry Urban-Dev. Agency
15651 East Stafford Street
P.O. Box 7089
City of Industry, CA 91744

Susan B. Gerson
Graham & James, LLP
Suite 700
2000 M Street, N.W.
Washington, D.C. 20036

William R. Knight
Director-Fuel Svcs Dept
Wisconsin Light & Power Co.
P.O. Box 192
222 West Washington Avenue
Madison, WI 53701-0192

Steve Tucker
President
D&RGW Employees Labor Cmte
2043 J Road
Fruita, CO 81521

Anne D. Smith
White & Case
1417 Pennsylvania Ave, N.W.
Washington, D.C. 20006

J. Tucker
P.O. Box 25181
Arlington, VA 22202

Tami J. Yellico
Pueblo County Courthouse
215 West 10th Street
Pueblo, CO 81003

Kenton Forrest
Secretary-Inter Mtn Chapter
Nat'l RR Historical Society
P.O. Box 480181
Terminal Annex
Denver, CO 80248

Russell S. Jones III
Mountain Coal Company
555 17th Street
22nd Floor
Denver, CO 80202

Richard H. Streeter
Barnes & Thornburgh
1401 Eye Street, N.W.
Suite 500
Washington, D.C. 20005

Betty Jo Christian
Steptoe & Johnson
1330 Connecticut Ave, N.W.
Washington, D.C. 20036-1795

STB

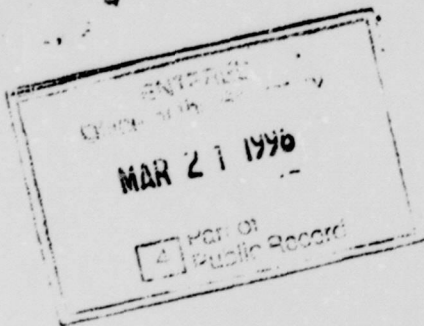
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3-20-96

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61880



61880



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Union Pacific Corporation, Union Pacific
Railroad Company, and Missouri Pacific
Railroad Company -- Control and Merger
-- Southern Pacific Rail Corporation,
Southern Pacific Transportation Company,
St. Louis Southwestern Railway Company,
SPCSL Corp., and the Denver and Rio
Grande Western Railroad Company

§
§
§
§
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§

Finance Docket No. 32760

**CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY'S MOTION
FOR LEAVE TO AMEND DESCRIPTION OF RESPONSIVE APPLICATION
AND PETITION FOR CLARIFICATION OR WAIVER**

-- EXPEDITED HANDLING REQUESTED --

Albert B. Krachman
Monica J. Palko
Bracewell & Patterson, L.L.P.
2000 K Street, N.W., Suite 500
Washington, D.C. 20006
(202) 828-5800

Attorneys for Capital Metropolitan
Transportation Authority

**BEFORE THE
SURFACE TRANSPORTATION BOARD**



Union Pacific Corporation, Union Pacific	§	
Railroad Company, and Missouri Pacific	§	
Railroad Company -- Control and Merger	§	
-- Southern Pacific Rail Corporation,	§	
Southern Pacific Transportation Company,	§	Finance Docket No. 32760
St. Louis Southwestern Railway Company,	§	
SPCSL Corp., and the Denver and Rio	§	
Grande Western Railroad Company	§	

**CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY'S MOTION
FOR LEAVE TO AMEND DESCRIPTION OF RESPONSIVE APPLICATION
AND PETITION FOR CLARIFICATION OR WAIVER**

Pursuant to 49 C.F.R. § 1104.11, Capital Metropolitan Transportation Authority ("CMTA") respectfully moves the Surface Transportation Board ("STB") for an Order granting CMTA leave to amend CMTA's Description of Responsive Application (CMTA-2) and Petition for Clarification or Waiver (CMTA-3), both timely filed on January 29, 1996. The limited amendments conform the pleadings to evidence obtained in written discovery responses on March 12 and 13, 1996, and if permitted, will conserve the resources of the STB and the parties by eliminating a contested issue. CMTA has not previously requested any amendments to its pleadings, and no party will be prejudiced by granting this Leave to Amend. The proposed amended pleadings are attached as Exhibits A and B.

CMTA is the Austin, Texas regional transit authority which is, and, at the time of filing CMTA-2 and -3, was the owner of a mass transit easement along the Giddings-Llano line in Travis County, Texas. Also at the time of filing CMTA-2 and -3, CMTA believed there was a high probability that the Burlington Northern and Santa Fe Corporation Railroad

("BN/SF") would pursue trackage and interchange rights over a 7 mile segment from Kerr (near Round Rock) to McNeil, which would permit BN/SF to serve shippers along the Giddings-Llano line. Because there was some uncertainty over the CMTA's ownership status, potential common carrier duties, and BN/SF's position, which might (or might not) have necessitated a later amendment to CMTA-2 and -3, CMTA afforded the STB advance notice of the amendment potential in both pleadings. *See* Footnotes 1 to CMTA-2, CMTA-3.

As a result of written discovery received from BN/SF on March 12, 1996, and the City of Austin's recent plan to convey the line to CMTA, CMTA believes that limited amendments to CMTA-2 and -3 are warranted. The proposed limited amendments to both pleadings add the phrase "an unnamed rail carrier unaffiliated with Applicants" in lieu of "BN/SF" as the holder of the new trackage rights from Kerr to McNeil.¹ This alternative accommodates the diminished potential that BN/SF will pursue the trackage rights at issue, and obviates potential litigation between CMTA, BN/SF and the Applicants on that issue. The amendment also affords CMTA and the STB additional flexibility in connection with an alternate carrier assuming the relevant trackage and interchange rights.

Because CMTA itself is not a carrier and cannot furnish information from an "applicant carrier" which has yet to be identified, CMTA requests, consistent with STB precedent in this case and ICC precedent in the BN/Santa Fe merger proceeding, Finance Docket No. 32549, that in conjunction with this amendment, the STB waive the requirements

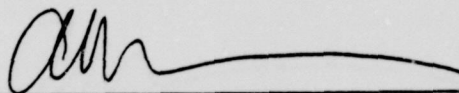
¹ The amended pleadings also clarify that the "primary interchange rights" sought at McNeil for future mass transit is intended to convey priority for mass transit over freight traffic at the interchange. In addition, the amended pleadings reflect that the City of Austin expects to award a contract to a successor operator within "several weeks," rather than "within a few months" of the filing.

of 49 C.F.R. § 1180 for the inclusion of information from the applicant carrier. *See* Decision No. 12 in this proceeding (granting similar requests of IBP, Inc., Wisconsin Electric Power Co., Commonwealth Edison Company, and Entergy Services, Inc., Arkansas Power & Light Company, and Gulf States Utility Company (collectively, "Entergy"); *Burlington Northern Inc. and Burlington Northern Railroad Company -- Control and Merger -- Santa Fe Pacific Corporation and the Atchison, Topeka and Santa Fe Railway Company*, Finance Docket 32549, Decision No. 15, served April 20, 1995). This waiver would not prejudice any other parties, would streamline the primary merger proceeding, and will conserve the limited resources of CMTA and the STB.

Wherefore, CMTA respectfully requests that the STB grant leave for CMTA to amend its Description and Petition to conform to the evidence, streamline the proceeding, and conserve resources, and waive the requirements of 49 C.F.R. § 1180 for inclusion of applicant carrier information regarding an unidentified applicant carrier.

Respectfully submitted,

CAPITAL METROPOLITAN
TRANSPORTATION AUTHORITY



Albert B. Krachman, Esq.
Monica J. Palko, Esq.
Bracewell & Patterson, L.L.P.
2000 K Street, N.W.
Suite 500
Washington, D.C. 20006
(202) 828-5800

Attorneys for Capital Metropolitan
Transportation Authority

CERTIFICATE OF SERVICE

I certify that on this 20th day of March, 1996 a copy of the foregoing Consolidated Motion for Leave to Amend Description of Responsive Application Anticipated and Petition for Clarification or Waiver was served by hand-delivery to:

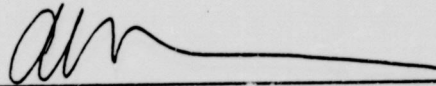
The Honorable Jerome Nelson
Federal Energy Regulatory Commission
888 First Street, N.E.
Room 11F-21
Washington, D.C. 20426

Erika Z Jones
Mayer, Brown & Platt
2000 Pennsylvania Avenue, N.W.
Suite 6500
Washington, D.C. 20006

Arvid E. Roach II, Esq.
Covington & Burling
1201 Pennsylvania Avenue, N.W.
P.O. Box 7566
Washington, D.C. 20044

Paul A. Cunningham, Esq.
Harkins Cunningham
1300 19th Street, N.W.
Washington, D.C. 20036

and by first class mail to all other parties of record listed on the service list attached to Decision No. 15, as amended and supplemented by Decision No. 17.



Albert B. Krachman

BEFORE THE
SURFACE TRANSPORTATION BOARD

Union Pacific Corporation, Union Pacific	§	
Railroad Company, and Missouri Pacific	§	
Railroad Company -- Control and Merger	§	
-- Southern Pacific Rail Corporation,	§	Finance Docket No. 32760
Southern Pacific Transportation Company,	§	
St. Louis Southwestern Railway Company,	§	
SPCSL Corp., and the Denver and Rio	§	
Grande Western Railroad Company	§	

**CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY'S
AMENDED DESCRIPTION OF RESPONSIVE APPLICATION ANTICIPATED**

I. Introduction

Capital Metropolitan Transportation Authority ("CMTA") hereby submits this Amended Description of Responsive Application in the above proceeding. The purpose of the responsive application will be to request certain interchange and trackage rights.

II. Description of Responsive Application

CMTA is a regional transit authority, a body politic and a political subdivision of the State of Texas. The City of Austin ("the City") owns the Giddings/Llano Railroad, which is about 162 miles long, running from Giddings, Texas, to Llano, Texas. CMTA owns a mass transit easement on and over the Giddings/Llano Railroad from Manor, Texas to Bertram, Texas. CMTA is also the manager of the Giddings/Llano Railroad, pursuant to an agreement between the City and CMTA.

Rail freight operations are currently provided by The Austin and Northwestern Railroad Co. ("AUNW") which extends common carrier service to shippers along the Giddings/Llano Railroad. The City has executed an agreement with a successor contractor to the AUNW. CMTA expects services by the new contractor to commence within several weeks of this filing.

On the Giddings/Llano Railroad, the City and AUNW have three interchange points with two Class I railroad carriers: Southern Pacific Railroad and Union Pacific Railroad. These interchange points are located at Giddings, Elgin, and McNeil. The McNeil interchange is located between Manor and Bertram.

The proposed merger would leave only one common carrier -- the merged railroad company, Union Pacific/Southern Pacific ("UPSP") -- to handle freight carriers who desire access to the McNeil interchange for North/South service. Without an alternative carrier, the merger threatens the economic viability of the Giddings/Llano Railroad, since the ability to interchange with more than one railroad carrier fosters competition for shipping prices. This competition is most critical for the McNeil interchange, which is located on the most active portion of the line. Elgin and Giddings interchanges are located on a portion of the line that has been discontinued, although from time to time parties propose to reopen it. CMTA believes the merger's anticompetitive effect can be offset by UPSP's granting trackage rights to another rail carrier unaffiliated with Applicants, from Round Rock to McNeil, and interchange rights at McNeil, and by granting interchange rights at McNeil, Elgin and Giddings for the City of Austin, its successors and assigns, and third party freight operators.

In addition, pursuant to its mass transit easement, CMTA is undertaking long and short range planning, which includes future mass transit through the McNeil interchange. However, such service would be premised upon CMTA's obtaining primary trackage and interchange rights to afford

priority to mass transit service over freight service, especially during peak passenger transport hours. Accordingly, through its responsive application, CMTA will request primary interchange rights at McNeil for its future mass transit operations. The public interest in a future mass transit operation to serve the Austin metropolitan area necessitates the primary interchange rights at the McNeil junction. Without priority interchange rights, commuter service through the McNeil interchange to the City of Austin could be interrupted at peak travel times, during morning rush hours, for example, without recourse or alternatives for CMTA. The interchange rights necessary for future mass transit operations would not have any anticompetitive effects, and would contribute to the public interest by meeting significant transportation needs.

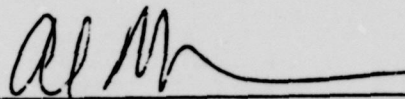
In accordance with Decision No. 9 in this proceeding, unless CMTA reaches prior voluntary agreements with the pertinent carriers, CMTA will seek through its responsive application:

- i) interchange rights at McNeil, Elgin and Giddings for the City of Austin, its successors and assigns, and third party freight operators;
- ii) primary (or priority) interchange rights at McNeil for its future mass transit operations; and
- iii) trackage rights to an unnamed rail carrier unaffiliated with the Applicants, from Round Rock to McNeil;
- iii) interchange rights at McNeil and/or Round Rock, as appropriate, for the designated unaffiliated carrier; and

- iv) that Southern Pacific and Union Pacific amend any and all proposed merger agreements between them in order to effect these conditions.

Respectfully submitted,

CAPITAL METROPOLITAN
TRANSPORTATION AUTHORITY



Albert B. Krachman, Esq.

Monica J. Palko, Esq.

Bracewell & Patterson, L.L.P.

2000 K Street, N.W.

Suite 500

Washington, D.C. 20006

(202) 828-5800

Attorneys for Capital Metropolitan
Transportation Authority

CERTIFICATE OF SERVICE

I certify that on this 20th day of March, 1996 a copy of the foregoing Consolidated Amendment to Description of Responsive Application Anticipated and Petition for Clarification or Waiver was served by hand-delivery to:

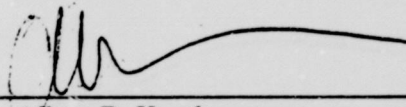
The Honorable Jerome Nelson
Federal Energy Regulatory Commission
888 First Street, N.E.
Room 11F-21
Washington, D.C. 20426

Erika Z Jones
Mayer, Brown & Platt
2000 Pennsylvania Avenue, N.W.
Suite 6500
Washington, D.C. 20006

Arvid E. Roach II, Esq.
Covington & Burling
1201 Pennsylvania Avenue, N.W.
P.O. Box 7566
Washington, D.C. 20044

Paul A. Cunningham, Esq.
Harkins Cunningham
1300 19th Street, N.W.
Washington, D.C. 20036

and by first class mail to all other parties of record listed on the service list attached to Decision No. 15, as supplemented and amended by Decision No. 17.



Albert B. Krachman

BEFORE THE
SURFACE TRANSPORTATION BOARD

Union Pacific Corporation, Union Pacific	§	
Railroad Company, and Missouri Pacific	§	
Railroad Company -- Control and Merger	§	
-- Southern Pacific Rail Corporation,	§	Finance Docket No. 32760
Southern Pacific Transportation Company,	§	
St. Louis Southwestern Railway Company,	§	
SPCSL Corp., and the Denver and Rio	§	
Grande Western Railroad Company	§	

**AMENDED PETITION OF CAPITAL METROPOLITAN
TRANSPORTATION AUTHORITY FOR CLARIFICATION OR WAIVER**

I. Introduction

Pursuant to Order No. 9 in the above case and 49 C.F.R. § 1180.4(d) (1995), Capital Metropolitan Transportation Authority ("CMTA") hereby files this Amended Petition for Clarification or Waiver. This Petition establishes that the relief CMTA will request through its responsive application is a "minor" transaction as that term is defined in 49 C.F.R. § 1180.2(c), and in the alternative, that CMTA should be relieved of various filing requirements applicable to "significant" transactions, as defined in 49 C.F.R. § 1180.2(b). In addition, it establishes that CMTA should be relieved of submitting "applicant carrier" information, to the extent CMTA seeks rights on behalf of an unnamed, unaffiliated rail carrier.

As reflected in CMTA's Description of Responsive Application (CMTA-2) filed on January 29, 1996, CMTA anticipates that it will file a responsive application in this proceeding, through which it will request certain interchange and trackage rights. The relief

CMTA seeks through this Petition for Clarification or Waiver will not impair the Surface Transportation Board's ("the Board") ability to reach a decision on the relief that CMTA will seek through its responsive application.

II. Discussion

Under 49 C.F.R. § 1180.4(d)(ii) and (iv)(4), CMTA's anticipated responsive application may be presumed to be a "significant" transaction. By this Petition, to the extent CMTA's responsive application is presumed to be a significant transaction, CMTA requests that the Board find CMTA has rebutted the presumption and determine that CMTA's responsive application will constitute a "minor" transaction. In the alternative, CMTA requests a waiver of the requirements of 49 C.F.R. §§ 1180.7 and 1180.8(a).

1. The Responsive Application is a Minor Transaction

The trackage and interchange rights application CMTA anticipates it will file would be a minor transaction within the meaning of 49 C.F.R. § 1180.2(c), since it clearly will not have any anticompetitive effects, *see* 49 C.F.R. § 1180.2(b)(1), and in fact will have beneficial effects on competition.

CMTA is a regional transit authority, a body politic and a political subdivision of the State of Texas. The City of Austin ("the City") owns the Giddings/Llano Railroad, approximately 162 miles long, running from Giddings, Texas, to Llano, Texas. CMTA holds a mass transit easement on and over the Giddings/Llano Railroad from Manor, Texas to Bertram, Texas. CMTA is also the manager of the Giddings/Llano Railroad, pursuant to an agreement between the City and CMTA.

Rail freight operations are currently provided by The Austin and Northwestern Railroad Co. ("AUNW") which extends common carrier service to shippers along the

Giddings/Llano Railroad. The City executed an agreement with a successor contractor to the AUNW. CMTA expects services by the new contractor to commence within several weeks of this filing.

On the Giddings/Llano Railroad, the City and AUNW have three interchange points with two Class I railroad carriers: Southern Pacific Railroad and Union Pacific Railroad. These interchange points are located at Giddings, Elgin, and McNeil. The McNeil interchange is located between Manor and Bertram.

The proposed merger will leave one common carrier -- the merged railroad company, Union Pacific/Southern Pacific ("UPSP") -- to handle freight carriers who desire access to the McNeil interchange for North/South service. Without an alternative carrier, the merger threatens the economic viability of the Giddings/Llano Railroad, since the ability to interchange with more than one railroad carrier fosters competition for shipping prices. This competition is most critical for the McNeil interchange, which is located on the most active portion of the line. Elgin and Giddings interchanges are located on a portion of the line that has been discontinued, although from time to time parties propose to reopen it. CMTA believes that this anticompetitive effect can be offset by granting trackage rights to another rail carrier unaffiliated with the Applicants, from Round Rock to McNeil, and interchange rights at McNeil, and by granting interchange rights at McNeil, Elgin and Giddings for the City of Austin, its successors and assigns, and third party rail freight operators.

In addition, pursuant to its mass transit easement, CMTA is undertaking long and short range planning, which includes future mass transit through the McNeil interchange. However, such service would be premised upon CMTA's obtaining primary (or priority) interchange trackage rights to afford priority to mass transit service over freight service,

especially during peak passenger transport hours. Accordingly, through its responsive application, CMTA may request priority interchange rights at McNeil for its future mass transit operations. The public interest in a future mass transit operation to serve the Austin metropolitan area necessitates these interchange rights at the McNeil junction. Without the priority interchange rights, commuter service through the McNeil interchange to the City of Austin could be interrupted at peak travel times, during morning rush hours, for example, without recourse or alternatives for CMTA. The primary interchange rights necessary for future mass transit operations would not have any anticompetitive effects, and would contribute to the public interest by meeting significant transportation needs.

In sum, in its responsive application (as described in CMTA's Description of Responsive Application) CMTA will seek interchange rights at McNeil, Elgin and Giddings for the City of Austin, its successors and assigns, and third party rail freight operators, and primary interchange rights at McNeil for CMTA's future mass transit operations. In addition, CMTA will request that the Surface Transportation Board grant an unnamed rail carrier unaffiliated with Applicants trackage rights from Round Rock to McNeil, over UPSP's line, and interchange rights at McNeil and/or Round Rock, as appropriate, depending on the designated carrier.

Since CMTA's responsive application would not only have no anticompetitive effects, but would in fact benefit competition, CMTA has rebutted the presumption that its responsive application would be "significant." Therefore, CMTA asks the Board to determine that the anticipated responsive application would be a "minor" transaction, and that the Board's regulations for minor transactions apply.

2. If the Board Determines the Transaction Would Be Significant, CMTA Requests a Waiver of Compliance with 49 C.F.R. §§ 1180.7 and 1180.8(a)

Section 1180.7 of the Board's consolidation regulations requires detailed market impact analyses for major and significant transactions. While CMTA expects to provide the Board with market information to support its responsive application, impact analyses of the detail required by Section 1180.7 would be unduly costly and burdensome for CMTA's transaction, which is limited in scope.

The proposed operating plan to be submitted under Section 1180.8(a) is to be based on the impact analyses to be performed under Section 1180.7. If the Board waives compliance with Section 1180.7, inferentially a waiver of Section 1180.8(a) requirements is appropriate. In any event, CMTA would provide the Board the operating data required for minor transactions under Section 1180.8(b), which should provide ample information to allow the Board to evaluate CMTA's operating plan.

3. CMTA Requests a Waiver of All Requirements in 49 C.F.R. § 1180 for the Inclusion of Applicant Carrier Information

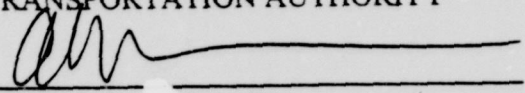
CMTA seeks a waiver of all requirements in 49 C.F.R. § 1180 for the inclusion of information from applicant carrier for that portion of its responsive application that seeks, for a rail carrier unaffiliated with the Applicants, to have trackage rights from Round Rock to McNeil, with interchange rights at McNeil and/or Round Rock, as appropriate. In this case, CMTA is a noncarrier seeking trackage and interchange rights on behalf of a suitable carrier unaffiliated with Applicants, the identity of which is uncertain at this time. CMTA asserts that this request is reasonable and similar to that which the Surface Transportation Board has granted in the past.

III. Conclusion

For the foregoing reasons, CMTA requests that the Board determine that CMTA's anticipated responsive application would constitute a minor transaction or, if the Board declines to do so, that it waive CMTA's obligation to comply with the requirements of 49 C.F.R. §§ 1180.7 and 1180.8(a). In addition, CMTA requests that, with regard to the interchange and trackage rights CMTA will seek on behalf of an unnamed, unaffiliated rail carrier, the Board waive CMTA's obligation to provide applicant carrier information required by 49 C.F.R. § 1180.

Respectfully submitted,

CAPITAL METROPOLITAN
TRANSPORTATION AUTHORITY



Albert B. Krause, Esq.
Monica J. Paiko, Esq.
Bracewell & Patterson, L.L.P.
2000 K Street, N.W.
Suite 500
Washington, D.C. 20006
(202) 828-5800

Attorneys for Capital Metropolitan
Transportation Authority

CERTIFICATE OF SERVICE

I certify that on this 20th day of March, 1996 a copy of the foregoing Amended Petition of Capital Metropolitan Transportation Authority for Clarification or Waiver was served by hand-delivery to:

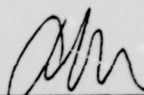
The Honorable Jerome Nelson
Federal Energy Regulatory Commission
888 First Street, N.E.
Room 11F-21
Washington, D.C. 20426

Erika Z Jones
Mayer, Brown & Platt
2000 Pennsylvania Avenue, N.W.
Suite 6500
Washington, D.C. 20006

Arvid E. Roach II, Esq.
Covington & Burling
1201 Pennsylvania Avenue, N.W.
P.O. Box 7566
Washington, D.C. 20044

Paul A. Cunningham, Esq.
Harkins Cunningham
1300 19th Street, N.W.
Washington, D.C. 20036

and by first class mail to all other parties of record listed on the service list attached to Decision No. 15, as supplemented and amended by Decision No. 17.



Albert B. Krachman

PROPOSED

ORDER GRANTING CONSOLIDATED MOTION FOR LEAVE TO AMEND DESCRIPTION AND PETITION AND GRANTING REQUESTED WAIVER OF "APPLICANT CARRIER" INFORMATION

SURFACE TRANSPORTATION BOARD¹

DECISION

Finance Docket No. 32760

UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY, AND
MISSOURI PACIFIC RAILROAD COMPANY -- CONTROL AND MERGER -- SOUTHERN
PACIFIC RAIL CORPORATION, SOUTHERN PACIFIC TRANSPORTATION COMPANY,
ST. LOUIS SOUTHWESTERN RAILWAY COMPANY, SPCSL CORP., AND THE DENVER
AND RIO GRANDE WESTERN RAILROAD COMPANY

[Decision No.]

Decided: March , 1996

BACKGROUND

On January 29, 1996, pursuant to Decision No. 9, Capital Metropolitan Transportation Authority ("CMTA") filed a Description of Anticipated Inconsistent and Responsive Application²

¹ The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the Act provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the Act. This decision relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to sections 11323-25 of the Act. Therefore, this decision applies the law in effect prior to the Act, and citations are to the former sections of the statute, unless otherwise indicated.

² In the primary application filed November 30, 1995, applicants -- Union Pacific Corporation (UPC), Union Pacific Railroad Company (UPRR), Missouri Pacific Railroad Company (MPRR), Southern Pacific Rial Corporation (SPR), Southern Pacific Transportation Company (SPT), St. Louis Southwestern Railway Company (SSW), SPCSL Corp. (SPCSL), and The Denver and Rio Grande Western Railroad Company (DRGW) (collectively applicants) -- seek approval and authorization under 49 U.S.C. 11343-45 for: (1) the acquisition of control of SPR by UP Acquisition Corporation (Acquisition), an indirect wholly owned subsidiary of UPC; (2) the merger of SPR into UPRR; and (3) the resulting common control of UP and SP by UPC. In Decision No. 9, served and published in the Federal Register on December 27, 1995, the ICC accepted the primary application for consideration.

(continued...)

CMTA-2 ("Description") and a Petition for Waiver or Clarification CMTA-3 ("Petition").³

CMTA indicated in CMTA-2 that it may file a responsive application requesting certain interchange rights at McNeil, Elgin, and Giddings, TX, for the City of Austin, its successors and assigns, and third party rail freight operators; trackage rights for Burlington Northern and Santa Fe Corporation Railroad (BN/Santa Fe) for track from Round Rock, TX, to McNeil, TX over the UP/SP line, and interchange rights at McNeil; and finally, "primary" or "priority" interchange rights at McNeil for CMTA's future mass transit operations. In both pleadings, CMTA noted the potential for future amendment of the Description and Petition based on changing circumstances during the pendency of the proceeding.

On March 20, 1996, CMTA filed a consolidated motion for leave to amend its Description of Responsive Application and related Petition for Clarification or Waiver.⁴ In sum, CMTA seeks to amend its Description to effect a change from the BN/Santa Fe as a designated recipient of certain trackage and interchange rights. CMTA desires to instead seek those same trackage and interchange rights on behalf of an unnamed rail carrier unaffiliated with the Applicants. Accordingly, CMTA seeks to amend its Petition to reflect the uncertainty of the applicant carrier by seeking Board waiver of what would otherwise be CMTA's obligation to file information regarding the "applicant carrier."

² (...continued)

UPC, UPRR and MPRR are referred to collectively as Union Pacific. UPRR and MPRR are referred to collectively as UP. SPR, SPT, SSW, SPCSL, and DRGW are referred to collectively as Southern Pacific. SPT, SSW, SPCSL, and DRGW are referred to collectively as SP. SPT is a wholly owned subsidiary of SPR. SPCSL and DRGW are wholly owned subsidiaries of SPT. SPT owns 99.9% of SSW.

³ The Board approved CMTA-3 in Decision No. 13, served on February 15, 1996.

⁴ CMTA designated its pleadings CMTA-7 (Motion for Leave to Amend Description of Responsive Application and Petition for Clarification or Waiver), CMTA-8 (Amended Description of Responsive Application Anticipated) and CMTA-9 (Amended Petition for Clarification or Waiver).

CMTA then seeks approval of the requested amended Petition.

DISCUSSION AND CONCLUSION

As grounds for the proposed amendment, CMTA asserts that at the time of filing CMTA-2 and -3, CMTA believed there was a high probability that the BN/Santa Fe would pursue trackage and interchange rights over a 7 mile segment from Kerr (near Round Rock) to McNeil, which would permit BN/Santa Fe to serve shippers along the Giddings-Llano line. Because there was uncertainty over CMTA's potential common carrier duties, and BN/Santa Fe's position, CMTA afforded the STB advance notice of the potential for a future amendment of the Description and the Petition. See Footnotes 1 to CMTA-2, CMTA-3.

CMTA adds that, as a result of written discovery received from BN/SF on March 12, 1996, and the City of Austin's recent plan to convey the line to CMTA, CMTA further believes that limited amendments to CMTA-2 and -3 are warranted. The proposed limited amendments to both pleadings add the phrase "an unnamed rail carrier unaffiliated with Applicants" as an alternative to "BN/SF" as the holder of the new trackage rights from Kerr to McNeil.⁵ This alternative accommodates the diminished potential that BN/Santa Fe will pursue the trackage rights at issue, and obviates potential litigation between CMTA, BN/Santa Fe and the Applicants on that issue. The amendment also affords CMTA and the STB additional flexibility in connection with an alternate carrier assuming the relevant trackage and interchange rights.

CMTA proposes that a responsive application for the same trackage and interchange rights to be granted to an unnamed carrier will not prejudice any party to this proceeding, and will in

⁵ The amended pleadings also clarify that the interchange rights at McNeil for future mass transit, denominated as "primary interchange rights," is intended to convey priority for mass transit over freight traffic at the interchange. In addition, the amended pleadings reflect that the City of Austin has entered into a contract with a successor operator to Austin & Northwest.

streamline efforts to resolve this merger swiftly. Any matters not resolved in the present proceeding could be resolved in a follow-up proceeding, which we stated in Decision No. 12 would not delay the consummation of the primary UP/SP merger. We agree and will accept the amended pleadings and grant the requested waiver.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

IT IS ORDERED:

1. CMTA's Consolidated Motion for Leave to Amend Description of Responsive Application Anticipated and Petition for Clarification or Waiver is granted.

2. CMTA's amended Petition for Clarification or Waiver is granted.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams
Secretary

STB

FD

32760

3-20-96

J

61879

WEINER, BRODSKY, SIDMAN & KIDER
ATTORNEYS AT LAW

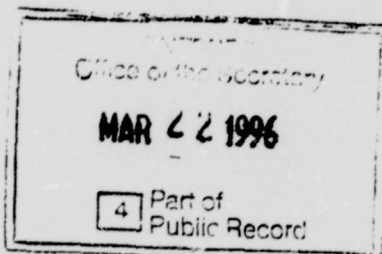
PROFESSIONAL CORPORATION

1350 NEW YORK AVENUE, N.W., SUITE 800

WASHINGTON, D.C. 20005-4797

(202) 628-2000

TELECOPIER (202) 628-2011

CHRISTOPHER E. KACZMAREK
"NOT ADMITTED IN D.C."

March 19, 1996

**VIA FACSIMILE**

The Honorable Jerome Nelson
Administrative Law Judge
Federal Energy Regulatory Commission
Room 11F21
888 First Street, N.E.
Washington, D.C. 20126

Re: Finance Docket No 32760., Union Pacific Corp., et al. --
Control & Merger -- Southern Pacific Corp., et al.

Dear Judge Nelson:

On March 12, 1996, Montana Rail Link, Inc. ("MRL") served its Responses and Objections to Applicants' First Set of Interrogatories and Requests for Production of Documents ("Response"). On March 13, 1996, the Applicants, by letter to you, disputed MRL's response and objection to Applicants' Document Request No. 31. This dispute is currently scheduled for resolution before you during the discovery conference now scheduled for tomorrow, Wednesday, March 20, 1996.

MRL wishes to inform you that MRL and the Applicants have now informally resolved this particular discovery dispute. MRL will turn over two trackage rights agreements, the only two in effect between MRL and any other railroad, to Applicants. These two agreements will be designated and stamped as "Confidential" and are to be treated in accordance with the Protective Order entered in this proceeding. MRL is not a party to any haulage agreement with any other railroad and, therefore, has nothing responsive to this aspect of the document request.

WEINER, BRODSKY, SIDMAN & KIDER, P.C.

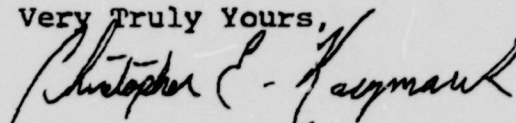
Letter to Judge Nelson

-2-

March 19, 1996

Owing to this resolution, this particular dispute can be removed from your March 20, 1996, discovery conference agenda. Should you have any questions, please have someone contact me at (202) 628-2000.

Very Truly Yours,



Christopher E. Kaczmarek

cc: Arvid E. Roach, III
Gerald P. Norton
Restricted Service List

WEINER, BRODSKY, SIDMAN & KIDER
ATTORNEYS AT LAW

PROFESSIONAL CORPORATION

1330 NEW YORK AVENUE, N.W., SUITE 800

WASHINGTON, D.C. 20005-4797

(202) 628-2000

TELESCOPIER (202) 628-2011

CHRISTOPHER E. KACZMARI
*NOT ADMITTED IN D.C.

March 19, 1996

BY HAND

Arvid E. Roach, II, Esq.
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20044

Gerald P. Norton
Harkins Cunningham
1300 Nineteenth Street, N.W.
Suite 600
Washington, D.C. 20036-1609

Dear Counsel:

On March 12, 1996, Montana Rail Link, Inc. ("MRL") served the Applicants with its Responses and Objections to Applicants' First Set of Interrogatories and Requests for Production of Documents ("Response"). On March 13, 1996, the Applicants, by letter to Administrative Judge Jerome Nelson ("Judge Nelson"), disputed MRL's response and objection to Applicants' Document Request No. 31.

In an effort to informally resolve this discovery dispute without resort to Judge Nelson, counsel for MRL and counsel for the Applicants have agreed as follows. MRL is submitting with this letter two trackage rights agreements. These are the only current trackage rights agreements in effect between MRL and any other railroad. These agreements have been designated and stamped as "Confidential" and will be treated in accordance with the Protective Order entered in this proceeding. MRL is not a party to any haulage agreement with any other railroad and, therefore, has nothing responsive to this aspect of Applicants' Document Request No. 31.

In supplementing its March 12, 1996 Response in this way, MRL does not waive any of the general or specific objections, or the reservation of rights, set forth therein. Indeed, MRL expressly incorporates herein by reference all applicable general and specific objections, including the specific objection to

WEINER, BRODSKY, SIDMAN & KIDER, P.C.

Letter to Counsel

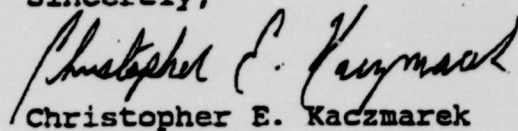
-2-

March 19, 1996

Document Request No. 31, and the reservation of rights, as set forth in the Response.

Please contact me at (202) 628-2000 if you have any questions or comments.

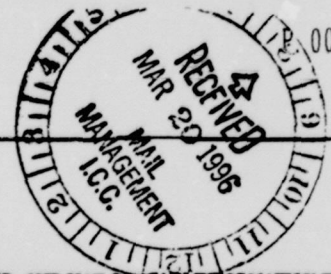
Sincerely,


Christopher E. Kaczmarek

By Facsimile

cc: Restricted Service List (w/o enclosures)

Enclosures

WEINER, BRODSKY, SIDMAN & KIDER
ATTORNEYS AT LAWA PROFESSIONAL CORPORATION
1350 NEW YORK AVENUE, N.W. STE 800
WASHINGTON, D.C. 20005-4797
(202) 628-2000; TELECOPIER(202) 628-2011**IMPORTANT:**

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TELECOPIER COVER PAGEFrom: **CHRISTOPHER E. KACZMAREK**

Date: March 18, 1996

Pages: 5Client/Matter: **93068.004****RESTRICTED SERVICE LISTS**

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Jan Lubel	202-274-2994 ✓	202-274-2950	Kevin Sheys	202-293-6200	202-293-6200
William Mullins			Thomas Lawrence		
Richard Bruening	816-556-0327 ✓	816-556-0392	Peter Shudis	804-783-1355	804-783-1343
Robert Dralling			Richard E. Welcher	708-995-3540	708-995-6887
Scott Stone	202-457-6415 ✓	202-457-6335	Janice Barber	617-333-5142	617-878-7934
Richard Edelman	202-296-7143 ✓	202-296-8500	Mark Tobey	512-320-0975	512-483-2185
William Mahoney			Lindsay Bower	415-356-6377/6370	415-356-6000
Donald Griffin			William Cottrell	312-814-2549	312-814-4823
Edward Greenberg	202-342-5219 ✓	202-342-5277	Michael F. McBride	202-986-8102	202-986-8000
Andrew Goodson			Richard H. Streeter	202-408-6033	202-989-1330
John Luedke			John D. Heffner	202-859-4934	202-785-3700
Richard Allen	202-342-0683/1316 ✓	202-298-8860	Keith G. O'Brien		
Andrew B. Plump			Robert A. Wimblish		
John V. Edwards			Mark H. Sidman	202-628-2011	202-628-2000
Art Hill	702-689-4859 ✓	702-689-4424	Thomas F. McFarland	312-201-9695	301-238-0204
Charles Spitulnik	202-836-8138 ✓	202-836-8000	James F. Bill	404-885-3900	404-885-3000
Alicia Seraffy			Sean F.X. Boland		
Martin Bercoovici	202-434-4551/4646 ✓	202-434-4144	Virginia B. Metallo		
Douglas J. Behr			Carl W. von Bamuth	610-861-3111	610-861-3290
Arthur Garrett			Cannon Harvey	303-812-4159	303-812-3005
Robert Bruskin	202-383-6610 ✓	202-783-0800	Carol Harris	415-485-5436	415-541-1000
Mark Schachter			Louis Warhot		
Rosemary H. McEnery			Paul A. Conley	402-271-5610/5625	402-271-4229
Mark L. Josephs			James Dolan		
Stichell Kraus	301-830-7663 ✓	301-848-4910	Paul A. Cunningham	202-973-7610/7620	202-973-7601
Larry Pruden					
Joseph Guerrieri	202-624-7420 ✓	202-624-7400			
Debra Willen					
Terence Hynes	202-738-8711 ✓	202-738-8000			
Krista L. Edwards					
Constance Abrams	215-209-4817	215-209-2060			
Jonathan Broder					